

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re : Chapter 11  
DELPHI CORPORATION, et al., : Case No. 05-44481 (RDD)  
Debtors. : (Jointly Administered)  
----- x

AFFIDAVIT OF SERVICE

I, Evan Gershbein, being duly sworn according to law, depose and say that I am employed by Kurtzman Carson Consultants, LLC, the Court appointed claims and noticing agent for the Debtors in the above-captioned cases.

On February 1, 2007, I caused to be served the documents listed below (i) upon the parties listed on Exhibit A hereto via overnight delivery, (ii) upon the parties listed on Exhibit B hereto via electronic notification and (iii) upon the parties listed on Exhibit C hereto via postage pre-paid U.S. mail:

- 1) Debtors' Supplemental Reply With Respect to Proof of Claim No. 12083 (Donna Wilson) ("Supplemental Reply - Donna Wilson") (Docket No. 6798) [a copy of which is attached hereto as Exhibit D]
- 2) Debtors' Supplemental Reply With Respect to Proof of Claim Number 6255 (Edith James) ("Supplemental Reply - Edith James") (Docket No. 6799) [a copy of which is attached hereto as Exhibit E]
- 3) Notice of Adjournment of Claims Objection Hearing With Respect to Debtors' Objection to Proof of Claim No. 9956 (Joseph Reno) (Docket No. 6800) [a copy of which is attached hereto as Exhibit F]
- 4) Notice of Adjournment of Claims Objection Hearing With Respect to Debtors' Objection to Proof of Claim No. 12163 (Eva Orlik) (Docket No. 6801) [a copy of which is attached hereto as Exhibit G]

On February 1, 2007, I caused to be served the document listed below upon the parties listed on Exhibit H hereto via overnight delivery:

- 5) Debtors' Supplemental Reply With Respect to Proof of Claim No. 12083 (Donna Wilson) ("Supplemental Reply - Donna Wilson") (Docket No. 6798) [a copy of which is attached hereto as Exhibit D]

On February 1, 2007, I caused to be served the document listed below upon the party listed on Exhibit I hereto via overnight delivery:

- 6) Debtors' Supplemental Reply With Respect to Proof of Claim Number 6255 (Edith James) ("Supplemental Reply - Edith James") (Docket No. 6799) [a copy of which is attached hereto as Exhibit E]

On February 1, 2007, I caused to be served the document listed below upon the party listed on Exhibit J hereto via overnight delivery:

- 7) Notice of Adjournment of Claims Objection Hearing With Respect to Debtors' Objection to Proof of Claim No. 9956 (Joseph Reno) (Docket No. 6800) [a copy of which is attached hereto as Exhibit F]

On February 1, 2007, I caused to be served the document listed below upon the parties listed on Exhibit K hereto via overnight delivery:

- 8) Notice of Adjournment of Claims Objection Hearing With Respect to Debtors' Objection to Proof of Claim No. 12163 (Eva Orlik) (Docket No. 6801) [a copy of which is attached hereto as Exhibit G]

Dated: February 2, 2007

/s/ Evan Gershbein  
Evan Gershbein

Subscribed and sworn to (or affirmed) before me on this 2nd day of February, 2007, by Evan Gershbein, personally known to me or proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Signature: /s/ Shannon J. Spencer

Commission Expires: 6/20/10

# **EXHIBIT A**

COMPANY	CONTACT	ADDRESS1	ADDRESS2	CITY	STATE	ZIP	PHONE	FAX	EMAIL	PARTY / FUNCTION
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Davis, Polk & Wardwell	Donald Bernstein Brian Resnick	450 Lexington Avenue		New York	NY	10017	212-450-4092 212-450-4213	212-450-3092 212-450-3213	<a href="mailto:donald.bernstein@dpw.com">donald.bernstein@dpw.com</a> <a href="mailto:brian.resnick@dpw.com">brian.resnick@dpw.com</a>	Counsel to Debtor's Postpetition Administrative Agent
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Tyco Electronics Corporation	MaryAnn Brereton, Assistant General Counsel	60 Columbia Road		Morristown	NJ	7960	973-656-8365	973-656-8805 212-668-2255 does not take service via fax		Creditor Committee Member
United States Trustee	Alicia M. Leonhard	33 Whitehall Street	21st Floor	New York	NY	10004-2112	212-510-0500			Counsel to United States Trustee
Warner Stevens, L.L.P.	Michael D. Warner	1700 City Center Tower II	301 Commerce Street	Fort Worth	TX	76102	817-810-5250	817-810-5255	<a href="mailto:mwarner@warnerstevens.com">mwarner@warnerstevens.com</a>	Proposed Conflicts Counsel to the Official Committee of Unsecured Creditors
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Wilmington Trust Company	Steven M. Cimalore	Rodney Square North	1100 North Market Street	Wilmington	DE	19890	302-636-6058	302-636-4143	<a href="mailto:scimalore@wilmingtontrust.com">scimalore@wilmingtontrust.com</a>	Creditor Committee Member/Indenture Trustee

## **EXHIBIT B**

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:		
In re	:		Chapter 11
	:		
DELPHI CORPORATION, <u>et al.</u> ,	:		Case No. 05-44481 (RDD)
	:		
	:		(Jointly Administered)
Debtors.	:		
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DEBTORS' SUPPLEMENTAL REPLY WITH RESPECT TO  
PROOF OF CLAIM NO. 12083 (DONNA WILSON)

("SUPPLEMENTAL REPLY – DONNA WILSON")

Delphi Corporation and certain of its subsidiaries and affiliates, debtors and  
debtors-in-possession in the above-captioned cases (collectively, "Delphi" or the "Debtors"),



hereby submit their Supplemental Reply With Respect To Proof Of Claim No. 12083<sup>1</sup> (Donna Wilson) (this "Supplemental Reply"), and respectfully represent as follows:

Introduction

1. Donna Wilson ("Wilson"), a former employee of Delphi, asserts a claim based on alleged racial discrimination that occurred when she was suspended without pay for fourteen days and transferred to a different department following an incident in which seventy percent of all of the employees on the B shift at Delphi's Saginaw, Michigan plant – Wilson and eight others – did not show up for their shift that started at 3:30 p.m. on Monday, March 8, 2004. Faced with these circumstances, Delphi management immediately tried to find employees to begin work on the B shift and began investigating the cause of what appeared to be a coordinated work stoppage. Based on events occurring days before the work stoppage, employee statements, and interviews of the employees who failed to report to work that Monday, Delphi management concluded that the employees did so in protest of the termination of a former supervisor at the Saginaw plant one business day earlier.

2. Despite Wilson's claim that Delphi suspended her because she is African American, the fact is Delphi management clearly had a legitimate business reason for its decision to suspend Wilson and her co-workers. Management imposed the discipline to address the disruptive conduct caused by seventy percent of the B shift workforce failing to report for their shift. The discipline was necessary to thwart future unauthorized work stoppages, such as the one that happened on March 8, which threatened Delphi's ability to meet crucial production demands. Because Delphi's decision to suspend Wilson was based on a legitimate business

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<sup>1</sup> Claimant's counsel explicitly agreed during the meet and confer meeting pursuant to the Claim Objection Procedures Order held on January 8, 2007 that the amended proof of claim (#16428) should be resolved at the same time as the original proof of claim (#12083) despite the fact that the amended claim was not previously scheduled for resolution on March 1, 2007.

reason, and not on Wilson's race, Wilson cannot maintain a racial discrimination claim against the Debtors.

3. Wilson's only real attempt to undermine Delphi management's legitimate business reason is to argue that she did in fact see a doctor at the precise date and time of the work stoppage. This argument must fail because the issue in this case is not – as Wilson would prefer – whether or not she saw or did not see a doctor on March 8, 2004. Rather, the issue is whether Delphi discriminated against her based on race. Wilson did not timely call in her absence, as she is required to do. Nor did she call in until Delphi management left a message on her home phone after management began wondering where she was. Moreover, under the circumstances of this case, Delphi management came to the conclusion that Wilson participated in the work stoppage by timing her doctor's appointment to coincide with the stoppage. Indeed, Wilson apparently made the March 8 doctor's appointment the same day. Thus, after it's investigation, Delphi management was entitled to believe that Wilson participated in the work stoppage by planning her doctor's appointment to coincide with the precise time of the work stoppage. Accordingly, Wilson cannot show discrimination, and her claim should be disallowed and expunged.

#### Background

4. On Thursday, March 4, 2004, Delphi's Component Valve Stream Manager for Plant 6 in Saginaw, Leigh Ochoa ("Ochoa"), notified a B shift supervisor in Department 32, Tommie Gipson, that he would be terminated for performance issues and that March 5 would be his last day. See Declaration Of Leigh Ochoa In Support Of Debtors' Supplemental Reply With Respect To Proof Of Claim 12083 (Donna Wilson) (the "Ochoa Dec.") ¶ 5, a true and correct copy of which is attached hereto as Exhibit A.

5. Before Ochoa terminated Gipson, Gipson had supervised thirteen hourly persons who worked on Department 32's B shift, including nine African Americans and four Caucasians. Id. ¶ 7. Wilson, one of the nine African American employees, transferred to B shift and was scheduled to start on Monday, March 8, 2004. Id. ¶ 16. Although March 8 was to be her first full time day on the B shift, Wilson had worked a large amount of overtime on the B shift prior to her full time transfer and was well aware that the start time of the shift was 3:30 p.m. Id.

6. On Monday, March 8, 2004, nine employees failed to report to work for the B shift, while four employees appeared as scheduled. Id. ¶¶ 7-10; Declaration Of Rebecca Oster In Support of Debtors' Supplemental Reply With Respect To Proof Of Claim 12083 (the "Oster Dec.") ¶ 4, a true and correct copy of which is attached hereto as Exhibit B. Wilson, one of the employees who failed to report to work as scheduled, failed to notified Delphi that she would be out due to an illness until after 4:00 p.m. Ochoa Dec. ¶¶ 10, 14.

7. Because March 8 was a particularly critical production day for Department 32, Delphi management was concerned about the inordinately large number of employees – seventy percent of the workforce – who did not report to work for the B shift. Ochoa Dec. ¶ 9. As a result, Ochoa began calling employees who had not reported in an attempt to get them in to work. Id. ¶¶ 10-14. When she began calling the employees, Ochoa was not aware that all of them were African American. Id. ¶ 10. As a result both of telephone conversations with a number of the employees who failed to report to work and of internal discussions with other managers, Ochoa was convinced that B shift employees who were absent were likely participating in a work stoppage to protest Gipson's termination the previous week. Id. ¶¶ 10-15.

8. The next day, Tuesday, March 9, 2004, Delphi management conducted interviews (the "76(a) Interviews") pursuant to Paragraph 76(a) of the Collective Bargaining Agreement (the "CBA") between Delphi and the United Automobile Workers (the "UAW"). Ochoa Dec. ¶¶ 19, 21; Oster Dec. ¶ 8. Delphi management also decided to indefinitely suspend all nine employees who it believed likely participated in the unauthorized work stoppage, pending review of the incident. Ochoa Dec. ¶ 19; Oster Dec. ¶ 6.

9. On Wednesday, March 10, 2004, Delphi management, after having its first chance to review the notes of all nine 76(a) Interviews conducted the prior day, converted the indefinite suspensions, including the suspension of Wilson, to unpaid suspensions for the balance of the shift, plus 30 days. Ochoa Dec. ¶ 23; Oster ¶ 10. Although pursuant to Paragraph 117 of the CBA, an unauthorized work stoppage could constitute grounds for termination, Delphi management felt that a 30 day suspension was more appropriate, given that no one directly admitted to the Delphi interviewers their participation in the work stoppage. Ochoa Dec. ¶ 23; Oster ¶ 10.

10. A week or so later when the UAW pursued grievances related to the discipline, Delphi management agreed to settle the grievances with most of the employees, including Wilson, by reducing their suspensions to time off work for the balance of the shift and two weeks. Ochoa Dec. ¶ 24; Oster Dec. ¶ 13. As part of that settlement, to which Wilson consented, Wilson was permitted to return to work in another of the Debtors' departments following the reduced suspension. Ochoa Dec. ¶ 24; Oster Dec. ¶ 13.

11. Delphi management suspended the employees who failed to report to work on March 8, including Wilson, because they failed to report to work and not because of their race. Ochoa Dec. ¶ 26; Oster Dec. ¶ 12.

12. Wilson filed Proof of Claim No. 12083 (the "Proof of Claim") on or about July 28, 2006. The Proof of Claim asserts an unsecured nonpriority claim in the amount of \$250,000.00 (the "Claim") based on an alleged civil rights violation by the Debtors.

13. The Debtors objected to the Claim pursuant to the Debtors' (i) Third Omnibus Objection (Substantive) Pursuant to 11 U.S.C. § 502(b) and Fed. R. Bankr. P. 3007 to Certain (a) Claims With Insufficient Documentation, (b) Claims Unsubstantiated by Debtors' Books and Records, and (c) Claims Subject to Modification and (ii) Motion to Estimate Contingent and Unliquidated Claims Pursuant to 11 U.S.C. § 502(c) (Docket No. 5452) (the "Third Omnibus Claims Objection"), which was filed on October 31, 2006.

14. On November 22, 2006, Wilson filed the Response in Opposition to Debtor's Third Omnibus Objection to Claim of Donna L. Wilson (Docket No. 5856) (the "Response").

15. On January 3, 2007, the Debtors filed their Statement of Disputed Issues With Respect to Proof of Claim 12803 (Wilson) (Docket No. 5856) (the "Statement of Disputed Issues").

16. On January 8, 2007, the Debtors and Wilson, with their legal counsel, conducted a telephonic meet and confer pursuant to the Order Pursuant to 11 U.S.C. § 502(b) and Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, and 9014 Establishing (i) Dates

for Hearings Regarding Objections to Claims and (ii) Certain Notices and Procedures Governing Objections to Claims (Docket No. 6089) (the "Claims Objection Procedures Order").

17. On January 18, 2007, Wilson filed her Supplemental Response (Re: Claim No. 12803) to Debtors' Third Omnibus Claims Objection and Statement of Disputed Issues (the "Supplemental Response") (Docket No. 6666). Wilson did not file any affidavits or declarations with her Supplemental Response.

### Argument

18. Wilson cannot establish a claim against the Debtors because Delphi's suspension of Wilson was clearly not the result of discrimination based on Wilson's race. Instead, it was based on Delphi management's judgment that Wilson had participated in an unacceptable work stoppage. Even if representatives of Delphi were incorrect in their determination that Wilson had participated in a work stoppage, Wilson cannot maintain a claim because the accuracy of Delphi's determination is irrelevant to an analysis of whether Delphi discriminated against Wilson based on her race. Delphi management suspended Wilson because it reasonably believed that she had participated in a work stoppage by timing her doctor's appointment to coincide with the precise time and date of the planned work stoppage.

#### A. Delphi Did Not Discriminate Against Wilson

19. Delphi did not discriminate against Wilson by suspending her after she and eight other co-workers, out of a 13-worker unit in Department 32, failed to report for work on the March 8, 2004 B shift. Ochoa Dec. ¶ 7-10. Wilson's attempt to focus on the irrelevant question of whether she actually participated in a work stoppage is nothing more than a red herring meant to distract from the fact that she cannot meet her burden to prove that Delphi was

motivated by a discriminatory intent. To the contrary, the evidence clearly establishes that representatives of Delphi suspended Wilson because of their reasonable belief that she participated in a work stoppage.

20. Wilson's case is brought pursuant to Michigan's Civil Rights Act ("CRA"), M.C.L. 37.2101, *et seq.* It is permissible under the CRA to prove a case of unlawful discrimination through direct evidence of discrimination. See Sniecinski v. Blue Cross and Blue Shield of Mich., 666 NW. 2d 186, 193-94 (Mich. 2003). In direct evidence matters where there are mixed motives present, "i.e., where the adverse employment decision could have been based on both legitimate and legally impermissible reasons, a plaintiff must prove that the defendant's discriminatory animus was more likely than not a 'substantial' or 'motivating' factor in the decision." Id. at 192-93. Wilson has not, and cannot, provide any direct evidence that representatives of Delphi were motivated by discriminatory animus in their decision to suspend Wilson.<sup>2</sup> To the contrary, two of the supervisors directly responsible for the decision to suspend Wilson have stated that such decision had nothing to do with Wilson's race. Ochoa Dec. ¶ 18; Oster Dec. ¶ 5. Wilson therefore has no direct evidence of discrimination.

21. In an indirect or circumstantial evidence case, courts use a burden-shifting approach. Michigan utilizes the framework propounded in a federal context in McDonnell-Douglas Corp. v. Green, 411 U.S. 792 (1973). See Hazle v. Ford Motor Co., 628 N.W.2d 515 (Mich. 2001); Lytle v. Malady, 579 N.W.2d 906 (Mich. 1998). To establish a "prima facie case" of racial discrimination under McDonnell-Douglas, a plaintiff must submit "evidence that (1) she

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<sup>2</sup> The Debtors note that Wilson failed to attach to the Supplemental Response affidavits or declarations of witnesses. Pursuant to Paragraph 9(e)(iii) of the Claims Objection Procedures Order, Wilson may not elicit direct testimony at the hearing on her claim from witnesses under her control, but instead must rely on affidavits or declarations attached to the Supplemental Response. See Claims Objection Procedures Order ¶ 9(e)(iii).

belongs to a protected class, (2) she suffered an adverse employment action, (3) she was qualified for the position, and (4) [the adverse action] occurred under circumstances giving rise to an inference of unlawful discrimination." Sniecinski, 666 N.W.2d at 193. If a prima facie case is established, "[a] defendant may rebut the presumption of causation by articulating a legitimate, nondiscriminatory reason for the employment decision." Id. at 135. If a defendant meets its burden of articulating a legitimate, non-discriminatory reason for the employment action, then the burden shifts back to plaintiff to establish that defendant's rationale is in fact just "a mere pretext for discrimination." Id.

22. Here, Wilson cannot meet her initial burden because she cannot show that the suspension of Wilson occurred under circumstances giving rise to an inference of unlawful discrimination.

23. Wilson cannot point to non-minority employees who were treated better than she was treated under similar circumstances. In Mitchell v. Toledo Hospital, 964 F.2d 577, 583 (6th Cir. 1992), the Court held that "[i]t is fundamental that to make a comparison of a discrimination plaintiff's treatment to that of non-minority employees, the plaintiff must show that the 'comparables' are similarly-situated in all respects." (Emphasis in original).<sup>3</sup> Here, the only employees who failed to report to work on March 8 were African Americans. See Supplemental Response at 2-3. Accordingly, there were no non-minority employees involved in the March 8 incident whose situations were nearly identical to Wilson, and thus Wilson cannot establish an inference of unlawful discrimination. Indeed, had any of the Caucasian employee

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<sup>3</sup> As clarified by Ercegovich v. Goodyear Tire & Rubber Co., 154 F.3d 344, 352 (6th Cir. 1998), plaintiff is "required to prove that all of the relevant aspects of his employment situation were 'nearly identical' to those of [the non-minority's] employment situation." (Emphasis in original). See also Shumway v. United Parcel Service, Inc., 188 F.3d 60, 64 (2d Cir. 1997). Michigan has adopted a similar view. See Lytle, 579 N.W.2d at 917-18.



also fail to show up to work on March 8 – which did not happen – Delphi management would have treated them in the same manner with respect to discipline. Ochoa Dec. ¶ 26; Oster Dec. ¶ 12.

24. Moreover, the simple fact that every employee who did not show for work on March 8 had the common trait of being African American also does not create an inference of unlawful discrimination. The only reason that all of the employees who were selected for an interview were subsequently suspended was because they all missed work on March 8. Indeed, Ochoa did not know the race of these individuals when selecting them for interview, and selected all individuals who missed work March 8. Ochoa Dec. ¶ 10. Simply put, given the fact that the each employee who failed to report to work from the B shift on March 8 was African American, the single fact that all suspended employees were African American does not give rise to an inference of discrimination.

25. Even if Wilson could meet her initial burden to establish an inference of discrimination – which she cannot – the Debtors have shown that Delphi management had a legitimate non-discriminatory reason for suspending Wilson, namely that management believed she participated in an unauthorized work stoppage. Ochoa Dec. ¶ 18; Oster Dec. ¶ 5. Indeed, Ochoa disciplined all nine employees who did not show for work because she believed they participated in such a work stoppage. Ochoa Dec. ¶ 18.

26. Although many employees had explanations as to where they were and why they could not be at work on March 8, including Wilson's excuse that her doctor's appointment was scheduled during that day and time, *id.* ¶ 25, Ochoa based her decision on the following legitimate considerations: (i) she terminated the supervisor for B shift on Friday,

March 5, 2004 one business day before the Monday work stoppage; (ii) employees on the B shift were angry about their supervisor's recent termination and there was discussion about not coming into work on Monday to protest; (iii) approximately seventy percent of employees from B shift called off work; (iv) meeting production deadlines was crucial; and (v) the 76(a) Interviews did not suggest otherwise. Id. ¶ 18.

27. As Ochoa has stated, in her ten years of management experience, she had never seen seventy percent of a shift fail to report to work. Id. Given the fact that she had fired the workers' supervisor the previous working day, and was even told on March 8 that her handling of the Gipson firing was wrong and that many people were upset, she legitimately concluded that the employees who did not show for work were more likely than not those who were angry with her handling of the situation and those who were also participating in the work stoppage. Id. Had any of the four Caucasian employees on B shift participated in the work boycott, Ochoa would have disciplined them in a similar manner. Id. ¶ 26. Thus, Delphi clearly had a legitimate non-discriminatory reason for suspending Wilson.

28. Wilson attempts to side-step the relevant issue in the case by stressing that she allegedly scheduled a doctor's appointment for 2:00 p.m. on March 8 for a medical condition that she noticed the prior morning. See Supplemental Response at 7-8. This is a plain attempt to prove that her purpose for missing work was in fact her doctor's appointment and not what Delphi management reasonably believed at the time. The point is made clear by Wilson's argument that Delphi's investigation was not competent or extended. See Supplemental Response at 2. However, these arguments do not save Wilson's claim because whether Delphi management was correct in its conclusion that Wilson participated in a work stoppage is legally irrelevant.

29. Under Michigan law, "[t]he plaintiff cannot simply show that the employer's decision was wrong or mistaken, since the factual dispute at issue is whether discriminatory animus motivated the employer, not whether the employer is wise, shrewd, prudent or competent." Town v. Michigan Bell Telephone Co., 568 N.W.2d 64, 72 (Mich. 1997) (quoting Fuentes v. Perskie, 32 F.3d 759, 765 (3d Cir. 1994)). To raise questions about an employer's "business judgment" is not enough to meet claimant's burden. Town, 568 N.W.2d at 72. In Hazle, the Michigan Supreme Court rejected an attempt to establish discrimination by second-guessing an employer's business judgment. Hazle, 628 N.W.2d at 527-28. That an employer's decision was wrong and mistaken does not establish that it was driven by a discriminatory motive. Indeed, "[t]he law does not require employers to make perfect decisions, nor forbid them from making decisions that others may disagree with. Rather, employers may not hire, fire, or promote for impermissible, discriminatory reasons." Hartsel v. Keys, 87 F.3d 795, 801 (6th Cir. 1996).

30. Accordingly, it does not matter whether Delphi representatives were correct in their belief that Wilson participated in a work stoppage. What matters is whether Delphi representatives had a legitimate business reason for their decision to discipline Wilson. A work stoppage encompassing seventy percent of employees at a time when production is critical is certainly a legitimate business reason to discipline employees whom Delphi management believe likely participated in the work stoppage. Therefore, the Debtors clearly have established a legitimate business reason for suspending Wilson and the other employees absent on March 8.

31. Finally, Wilson cannot meet her burden of establishing that the work stoppage was merely a pretext for discriminatory action. "The inquiry at this final stage of the *McDonnell Douglas* framework is exactly the same as the ultimate factual inquiry made by the

jury: whether consideration of a protected characteristic was a motivating factor, namely, whether it made a difference in the contested employment decision." Hazle, 628 N.W.2d at 522. As noted above, Wilson has not presented evidence undermining Delphi management's reasons for disciplining Wilson and believing that Wilson likely scheduled the doctor's appointment around the same time and date as the work stoppage. Accordingly, Wilson cannot meet her burden to establish that Delphi Management's legitimate business decision was a mere pretext.

32. Wilson has not met her burden of showing discrimination. She has failed to show that Delphi management was motivated by unlawful discriminatory animus and that it intentionally discriminated against Wilson. The Debtors, on the other hand, have presented evidence showing that Delphi management had a legitimate business reason in disciplining Wilson. Accordingly, Wilson's Proof of Claim should be disallowed and expunged.

B. Wilson's Alleged Damages Would Be De Minimis

33. Even if Wilson could establish her claim of unlawful discrimination – which she cannot – her alleged damages are grossly overstated. Wilson alleges that her Claim should be allowed in the amount of \$250,000.00 See Response at 2. However, any damage claim would be cut off when Department 32 was disbanded in August 2004. Wilson's shift differential of 80 cents per hour times 40 hours would equal only \$32.00 per week or approximately \$640.00 for that five-month period. Her lost wages, based on her statement as to her 2003 earnings of \$100,000.00, would amount to approximately \$1,923.08 per week, for a

total of \$4,230.00 (two weeks plus one day). At most, economic damages of \$4,870.00 are all that are supported by the facts.<sup>4</sup>

34. Wilson also alleges non-economic damages, including emotional distress. Notably, she alleges that she was treated by a social worker, who found her stressors to be "mainly situational", with three previous and unrelated stressors. See Supplemental Response at 9. However, Wilson voluntarily accepted the grievance resolution regarding this matter, including (a) a reduction in the proposed suspension from 30 days to two weeks plus a part of another day and (b) the requirement that she return to work in a different department. Ochoa Dec. ¶ 24. Under these facts, there is no justification for allowing Wilson's claim for emotional damages.

### Conclusion

35. Wilson has failed to establish a claim against Debtors. Delphi management did not discriminate against Wilson, and it acted in accordance with a nondiscriminatory, legitimate reason when it suspended Wilson for her participation in an illegal work stoppage. Accordingly, the Debtors are not liable to Wilson, and the Third Omnibus Claims Objection should be sustained with respect to the Proof of Claim, and the Proof of Claim should be disallowed and expunged.

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<sup>4</sup> In the Complaint attached to the Proof of Claim, Wilson includes a count for an alleged violation of the Bullard-Plawecki Right to Know Act, MCL 423.452 et seq. (the "Bullard-Plawecki Act"). See Complaint attached to Proof of Claim. For a "willful and knowing" violation of the Bullard-Plawecki Act, a plaintiff can only recover \$200 plus costs, reasonable attorney's fees and actual damages. MCL 423.511(b). Although the Debtors dispute that they committed a willful and knowing violation of the Bullard-Plawecki Act, such a violation would give rise to, at best, minimal damages.

Memorandum of Law

36. Because the legal points and authorities upon which this Supplemental Reply relies are incorporated herein, the Debtors respectfully request that the requirement of the service and filing of a separate memorandum of law under Local Rule 9013-1(b) of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York be deemed satisfied.

WHEREFORE the Debtors respectfully request that this Court enter an order (a) disallowing and expunging the Claim and (b) granting the Debtors such other and further relief as is just.

Dated: New York, New York  
February 1, 2007

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
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DELPHI CORPORATION, et al.,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
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DECLARATION OF LEIGH OCHOA IN SUPPORT OF DEBTORS' SUPPLEMENTAL  
REPLY WITH RESPECT TO PROOF OF CLAIM 12083 (DONNA WILSON)

("LEIGH OCHOA – DONNA WILSON")



Leigh Ochoa declares as follows:

1. Delphi Corporation and certain of its subsidiaries and affiliates are debtors and debtors-in-possession in these chapter 11 cases ("Delphi" or the "Debtors"). I submit this declaration in support of the Debtors' Supplemental Reply With Respect To Proof Of Claim 12083 (Donna Wilson) (the "Supplemental Reply"). Capitalized terms not otherwise defined in this declaration have the meanings ascribed to them in the Supplemental Reply.

2. I received a B.S. in Construction Management in 1991 and a M.B.A. in 2005 from Michigan State University. I worked for General Motors ("GM") starting in 1994 and I have been employed at all times by Delphi since it commenced its existence as a separate entity in 1999. My various positions with GM and Delphi have always been in the management capacity. On March 8, 2004 I held the position of Component Valve Stream Manager, with responsibility for Department 32 of Plant 6 in Saginaw ("Plant"), among other departments. I left the Component Valve Stream Manager position in January of 2006, worked for a year as the Lean Implementation Manager, and I have been serving in my current position of Product Control Logistics Manager since December 2006.

3. Except as otherwise indicated, all facts set forth in this declaration are based upon my personal knowledge, my review of relevant documents, my opinion, and my experience with and knowledge of Donna Wilson's employment at Delphi. If I were called upon to testify, I could and would testify to the facts set forth herein.

4. On or before March 1, 2004, Wilson, who until that time worked on the C shift which started around midnight, was notified that she was transferred shifts and told to report to work on the B shift (3:30 p.m. to midnight) starting March 8, 2004.

5. On or about Thursday, March 4, 2004, I informed B shift supervisor Tommie Gipson that I was terminating him from his position in Department 32 effective the end of his shift on the following day, Friday, for performance reasons.

6. On Friday, March 5, 2004, Gipson reported for his last day of work but became very upset with me regarding his termination. I asked him to leave the Plant without finishing his shift which resulted in him missing a good-bye celebration that was planned in his honor by employees. I had previously attempted to obtain for Gipson other employment at Delphi, but after his behavior that day I ceased my search on his behalf. After Gipson's departure, I asked Dan Rytlewski, supervisor of the A shift (6:30 a.m. to 3:00 p.m.), to stay over to supervise the B shift.

7. On Monday, March 8, 2004, at or about the start of shift change from A shift to B shift which is about 3:00 p.m. to 3:30 p.m., I began to become aware that some of the thirteen employees on the B shift were calling in sick and that others had not reported to work on time. There are two generally acceptable ways an employee can call in sick. First, the collective bargaining agreement ("CBA") states that employees are to report an absence by calling a 1-800 number on or before the start of a shift. When an employee calls in via the 1-800 number, their work status (e.g., late, absent) is immediately entered into on a computer database to which I have access at my desk. Second, some employees also call in directly to the local number of the plant and inform someone manning the phones. Both means of communicating an absence are generally considered acceptable, so long as the employee calls in before the shift.

8. Around 3:00 p.m., Rytlewski and general supervisor Bryan Ehlman came to my office and informed me that Murry Culberson called Department 32 directly and stated that that he would be four hours late for his shift because he had church matters to work on.

(The CBA allows you to be considered late if you arrive within four hours or less of your shift start time while anytime after four hours is considered an absence.) Rytlewski and Ehlman further explained that a B shift employee who did show up for work said that it would be a difficult night because he overheard conversations of B shift employees on Friday indicating that some individuals were not coming to work that night because they were upset with me terminating Gipson.

9. As of March 8, 2004, Department 32 had critical production schedules to produce shaft assemblies that were being flown to Mexico to meet assembly line requirements there. If Plant employees failed to show up for work, it would be impossible to reach our production demands. Given the business implications, I was extremely worried about employees not showing up for B shift that night. As a result, I quickly checked our computer system that provides real time information as to whether an employee has called in absent or late on the 1-800 number. I verified that an unusually large number of employees were not coming to work on Monday.

10. I immediately decided to personally call all nine of the thirteen B shift employees who had either phoned in absent/late or simply failed to report to work on time. Of the nine employees who were not at work, I personally knew only three: Culberson, Kenny Williams, and Linda Johnson. I did not know the other six individuals and had no idea what those individuals' races were. Because I indirectly supervised over 150 employees at the time and do not directly supervise anyone on the B shift, I could not identify any of the individuals on B shift beyond Culberson, Williams, and Johnson. Wilson, whom I did not know at that time, was one of the nine individuals who did not report for work on March 8, 2004.

11. I decided to call the three absent employees whom I knew. First, I spoke with Culberson and explained that nine of the thirteen B shift employees did not report to work. I explained that I understood that he and others on B shift may be upset with my decision to terminate Gipson. I explained that it was a business decision and not a personal one. Culberson informed me that I was right that "we are upset with you and what you did." I stated that if this was an organized work stoppage, then it was very serious and that he needed to return to work as soon as possible. Culberson responded that he already had spoken to Rytlewski and informed him that he still planned on being four hours late.

12. Next, I spoke with Linda Johnson with whom I had worked with previously in a different position at Delphi. I highlighted the same issues to her that I explained to Culberson. I knew Johnson fairly well so I was shocked when, after I told her that organized work stoppages are very serious, she simply said "thank you for the call" and hung up the phone.

13. I then called Williams. His wife answered the phone and said he was at the dentist's office at the moment. I explained the seriousness of the situation to his wife and asked that he return to work immediately. A few minutes later, Williams called me back directly. I conveyed the same message to him that I did to Culberson and Johnson. Williams said, "I want no part of this. I'm on my way."

14. I proceeded to call the remaining six employees who failed to report for work, including Wilson. I reached a person at the residence of some employees. Other times, I was able only to leave a message on an answering machine. When I was uncertain who the person was that I was speaking with or I reached an answering machine at an employee's residence, I left a message with my contact information and that I was calling in regards to an important and urgent matter about their job. A true and accurate copy of my notes of inquiry is

attached at Exhibit 1. With respect to Wilson, I left a message on her answering machine. See Id. By that time, Wilson had not yet called in to report her absence but proceeded to call in only after I left that message. A true and accurate copy of Delphi's call in screen for March 8, 2004 is attached at Exhibit 2.

15. Based on the information conveyed to me by Rytlewski and Ehlman regarding their conversations with a B shift employee, the strange conversations I had with Culberson and Williams, and the extremely high, seventy-percent absentee rate that day confirmed to me that many individuals from the B shift were angry with me for terminating Gipson and that the absences that day were most likely planned as part of an organized work stoppage.

16. After completing my calls to all nine employees, I informed Plant Manger Curt Cargile of the situation. He informed me that my immediate focus should be on making sure the machines kept running in Department 32 so that we could keep making parts and meet our production schedules. I managed to find a way to fill some of the positions (or cover certain hours of the shift) by having A shift staff stay over for overtime, shutting down less critical equipment and transferring that staff to Department 32, and gathering any other available staff from other departments. I left the Plant the evening of March 8, 2004 at approximately 8 p.m. We managed to continue making parts in Department 32 that night but unfortunately still did not meet our production schedule.

17. On Tuesday, March 9, 2004, I arrived at the Plant at approximately 6:00 a.m. and I focused my attention to various operational tasks. By later morning, I returned to speak with Cargile about the incident from the previous day. I explained all the facts discussed

above to Cargile. He recommended that I consult with Rebecca Oster in our Labor Relations department.

18. I proceeded to Oster's office and I explained the incident from the prior day. I told her that I believed it was an organized work stoppage based on (i) Culberson and Williams comments when I telephoned them; (ii) the comment that a B shift staff member that showed up for work made to Rytlewski about some staff being upset and calling off work; (iii) the sheer coincidence that seventy percent of the staff was absent from work on the same day; and (iv) the close proximity in time between the termination of their shift supervisor and these mass absences. I also mentioned to Oster that never in my ten year career in management (and never since) had I experienced a situation where that large a percentage in a department had chosen not to come to work at the same time. Oster mentioned that she would seek advice from her supervisor, Robert Berg, about how best to handle this situation and then get back to me.

19. A few hours later, Oster contact me and suggested we handle the incident using a certain approach, which we subsequently began implementing. We decided that we would conduct interviews contemplated by Paragraph 76(a) of the CBA with each B shift employee who missed any work that Monday, March 8. We also determined it was appropriate to indefinitely suspend the employees pending our review of the interviews and any other investigation needed because their conduct appeared to be part of an organized work stoppage in violation of Paragraph 117 of the CBA.

20. As each employee arrived to work who had been absent on Monday, Ehlman or Rytlewski verbally informed them that they were on notice, as is required under the CBA of any potential shop rule violation. We did not want the employees to have time to compare and develop consistent stories about the incident on Friday regarding Gipson or their

absence or return to the workplace on Monday after being absent until such time as we were able to interview all of the employees. Accordingly, we arranged to have all employees absent on Monday be led to and remain in a conference room with Oster and another of her colleagues from Labor Relations until they could be interviewed. At some point, I recall going to the conference room because there was a disturbance. This was the first time I remember seeing the six other individuals who were absent on Monday.

21. Oster had developed a set of questions for the person conducting the interview to ask each employee. A true and accurate copy of the question template with Wilson's answers is attached as Exhibit 3. One by one each employee was removed from the conference room and individually interviewed by either Ehlman or Betty Stange, also a general supervisor, pursuant to Paragraph 76(a) the CBA with Union Representative Salvatore Cozzolino also present.

22. Before all of the interviews could be conducted, we determined that Ehlman needed to leave for the evening because he had worked the entire A shift and well into the B shift. Stange finished the remainder of the interviews. I also left when Ehlman left because I understand that they could have lasted until the early morning hours. It was agreed that Oster, Ehlman, and I would read all of the notes of the interviews, including the ones that Stange conducted after we left Tuesday night, and then decide what to do with respect to the employees who were absent on Monday.

23. On Wednesday, March 10, 2004, I arrived at work in the morning and proceeded to read all the 76(a) interviews from the nine employees that did not report to work on March 8, 2004. Later that morning, I spoke with Oster and Ehlman. We determined that the indefinite suspensions should be converted to suspensions for the balance of the shift plus 30

days without pay. We decided to give a lighter disciplinary action to Culberson and Williams, inasmuch as I had intimated to them on the phone that if they came in on Monday, the disciplinary action would be lighter. Participating in an illegal work stoppage was a dischargeable offense under the CBA. With respect to the other seven employees, we determined a less severe discipline was appropriate given that our investigations had not to date revealed any direct admissions that the absent employees were engaged in an illegal work stoppage. On the other hand, the offense was very serious and occurred at a particularly critical production time for the department so we needed to respond with appropriate disciplinary action.

24. That same day, the United Automobile Workers ("UAW") also filed grievances on behalf of all workers suspended as a result of the disciplinary actions resulting from the March 8 incident. As a result of that grievance process, I agreed to reduce the suspension to fourteen days plus the balance of the shift on which the employees were suspended, with the condition that the employees are assigned to a different department. Wilson consented to the grievance settlement.

25. Most employees involved in the work stoppage provided an excuse for their absence, health-related or otherwise. We investigated one doctor's note that an absent employee submitted, and the doctor's office confirmed that the individual had no appointment and must have forged the note. With respect to Wilson, we did investigate her claim that she was at a doctor appointment on March 8. We contacted her doctor's office, and her doctor's office confirmed that she scheduled and made her appointment on March 8. In my opinion, the fact that Wilson provided a doctor's note or even that she in fact visited her doctor was not sufficient evidence to overcome the likelihood that she participated in the work stoppage by planning a doctor appointment to coincide with the planned work stoppage. In my experience, the



following facts bolster my position that a doctor's note (even one that is verified) does not automatically exonerate an employee under these circumstances: (i) particularly on B shift an employee has the majority of a business day to schedule and attend appointments; (ii) appointments are often scheduled in advance so appropriate notice can be provided to the company (whereas Wilson called after B shift began and only after I left her a message); and (iii) doctor appointments themselves do not always require that an employee miss the entire shift.

26. Wilson was disciplined because she did not report for work on that date. In fact, if any of the Caucasian employees on B shift had failed to report to work, Delphi management would have disciplined them in the same manner as Wilson.

27. Subsequent to Wilson's suspension, I also learned from Stange that she was approached by an employee who claimed Wilson had tried to recruit that employee to participate in a work stoppage in connection with Gipson's termination, but the employee declined Wilson's offer.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing statements are true and correct.

Executed on February 1, 2007, in Saginaw, Michigan.

/s/ Leigh Ochoa  
Leigh Ochoa

Exhibit 1

**D32 Unplanned Absences for March 8<sup>th</sup>, 2004**

—	M. Brown ✓ 13:53	369-98-6175	Called in Sick. Left message with wife. ✓
	M. Culberson ✓	428-02-3091	Called in to be 4 hours late. Church Business.
	L. Johnson ✓ 14:29	441-52-2079	Called in sick. Called ee at home. She thanked me for my call. ✓
	B. Simmons ✓ 3:53	368-74-8624	Called in sick. Left message on machine. ✓
	K. Vaughn ✓ 14:03	386-04-0602	Called in sick. Left message with a person. - No record ✓
	S. Waters ✓	432-94-5230	No call in. Did not answer phone. ✓
—	K. Williams ✓ 12:02	369-66-5321	Called in sick. Spoke with employee, said he would come in in 30 minutes
	D. Wilson ✓ 6:08	363-64-4731	No call in. Left message on machine. - No record ✓
	E. Jones ✓	370-56-9707	No call in. Left message with a person. ✓

Clapp - here - 3 \*

Gross - here - B \*

Kirk - NOT in Apt. 32 \*

Kubik - here \*

Lissud - AS shift

Nond - here \*

Exhibit 2

TISU052

TIME AND ATTENDANCE

03/09/04

#043

PLANT ACCESS DATA - CURRENT WEEK

07:40

===== CISCO 44001 DEPT 6321 =====

DATE	SEQ #	RTW	S	G	EMPLOYEE NAME	SSN	ENTRY TYPE	REASON
040308	16085V	03/03	1		DR WILSON	363-64-4731	SICK	
040308	16110V	03/09	1		DR WILSON	363-64-4731	SICK	
040308	13530V	03/09	2		BH SIMMONS	368-74-8624	SICK	
040308	12025V	03/09	2		KB WILLIAMS	369-66-5321	SICK	
040308	13531V	03/09	2		MT BROWN	369-98-6175	SICK	
040308	07552I	03/09	1		RM WEST	380-74-1214	PERS	BUSINSS
040308	14031V	03/09	2		KA VAUGHN	386-04-0602	SICK	
040308	14290V	03/09	2		LD JOHNSON	441-52-2079	SICK	

END OF DATA

(PF KEYS) 1=HELP 3=MENU 7=BKWD 8=FWD  
10=RETURN 12=LOGOFF

MENU TRANS CODE: ( )  
SSN ( - - )

Exhibit 3

**Paragraph 76(a) Interview**

Date: 3/9/04

Time: 5:54 pm

Advisor: [Signature]

Diana Wilson, this is a Paragraph 76(a) interview per the N/A. This interview is for the purpose of allowing you to give information, provide clarification and present answers to questions in regards to your potential violation of Paragraph 117 of the N/A that prohibits "any member of the Union take part in any sitdown, stay in or slow down, in any plant of the corporation or any curtailment of work or restriction of production or interference with production of the corporation." You are being interviewed for your involvement in the actions that occurred in department 32 on the B shift of March 8, 2004 that are in violation of Paragraph 117. These actions may result in discipline or termination of your employment.

Do you understand that the action of conspiring with other employees about not coming into work is a violation of the National Agreement?

*I understand but I didn't conspire with anyone.*

Why were you not at work on Monday, March 8, 2004?

*Sick*

Did you call into the system? If yes, what was your call-in #?

*Twice - I have them at home.*

Do you have any documentation for your absence?

*Yes. I have a paper from the doctor.*

What other department 32 employees did you talk with about not showing up to work on March 8, 2004?

*I didn't talk to anyone about not showing up to work.*

We've been told that you've talked with the following employees about not coming to work on Monday March 8, 2004: Murry Culberson, Daniel Clapp, Eva Gross, Marcus Brown, Russell Kubik, Linda Johnson, Kareem Vaughn, Bruce Simmons, Kenneth Williams, Guy Wonch, Stanley Waters, and Eugene Jones.

*That is a complete lie. I don't even talk to Dan or Guy.  
Jesus Christ!*

Why would someone tell us that you and other department 32 employees talked about not coming to work on Monday March 8, 2004?

*I don't know what is going on. I have been sick for the last three months under doctors care. I'm not part of this. I don't even talk to Guy, Eva not about*

Why did employees in your department decide not to come into work on March 8, 2004?

*I don't know anything about anyone else, just me.*

Did your absence have anything to do with the separation of Tommie Gipson from his employment at Delphi?

*I don't give a damn about Tommie, why do I care about Tommie, I don't even know Tommie.*

Did you speak with Murry Culberson Friday March 5, 2004 about not coming to work on Monday March 8, 2004?

*No I didn't.*

Did you speak with Murry Culberson Saturday March 6, 2004 about not coming to work on Monday March 8, 2004?

*On Saturday I spoke to him.*

Did you speak with Murry Culberson Sunday March 7, 2004 about not coming to work on Monday March 8, 2004?

*I don't think I seen him on Saturday.*

Did you speak with Tommie Gipson Friday March 5, 2004 about not coming to work on Monday March 8, 2004?

*No, this is crazy. I didn't speak with anyone.*

Did you speak with Tommie Gipson Saturday March 6, 2004 about not coming to work on Monday March 8, 2004?

Did you speak with Tommie Gipson Sunday March 7, 2004 about not coming to work on Monday March 8, 2004?

*This is terrible.*

Did you speak with Daniel Clapp Friday March 5, 2004 about not coming to work on Monday March 8, 2004?

*No I didn't speak with anyone. He told me so.*

Did you speak with Daniel Clapp Saturday March 6, 2004 about not coming to work on Monday March 8, 2004?

*Saturday that he will see me on Monday.*

Did you speak with Daniel Clapp Sunday March 7, 2004 about not coming to work on Monday March 8, 2004?

Did you speak with Eva Gross Friday March 5, 2004 about not coming to work on Monday March 8, 2004?

*No I haven't talk to her in two or three weeks. She*

Did you speak with Eva Gross Saturday March 6, 2004 about not coming to work on Monday March 8, 2004?

*must be telling a lie.*

Did you speak with Eva Gross Sunday March 7, 2004 about not coming to work on Monday March 8, 2004?

Did you speak with Marcus Brown Friday March 5, 2004 about not coming to work on Monday March 8, 2004?

*I talk to him once about not coming in.*

Did you speak with Marcus Brown Saturday March 6, 2004 about not coming to work on Monday March 8, 2004?



Did you speak with Marcus Brown Sunday March 7, 2004 about not coming to work on Monday March 8, 2004?

Did you speak with Stanley Waters Friday March 5, 2004 about not coming to work on Monday March 8, 2004? *No, I don't think I seen Stan on Friday.*

Did you speak with Stanley Waters Saturday March 6, 2004 about not coming to work on Monday March 8, 2004? *I don't have stars picture + I didn't speak w. him*

Did you speak with Stanley Waters Sunday March 7, 2004 about not coming to work on Monday March 8, 2004? *him on Saturday. No I did not*

Did you speak with Russell Kubik Friday March 5, 2004 about not coming to work on Monday March 8, 2004? *no, I do not. I didn't even talk to Russ.*

Did you speak with Russell Kubik Saturday March 6, 2004 about not coming to work on Monday March 8, 2004?

Did you speak with Russell Kubik Sunday March 7, 2004 about not coming to work on Monday March 8, 2004?

Did you speak with Eugene Jones Friday March 5, 2004 about not coming to work on Monday March 8, 2004? *No I didn't talk to Eugene about not working*

Did you speak with Eugene Jones Saturday March 6, 2004 about not coming to work on Monday March 8, 2004?

Did you speak with Eugene Jones Sunday March 7, 2004 about not coming to work on Monday March 8, 2004? *I sat w. him. No*

Did you speak with Linda Johnson Friday March 5, 2004 about not coming to work on Monday March 8, 2004? *No*

Did you speak with Linda Johnson Saturday March 6, 2004 about not coming to work on Monday March 8, 2004?

Did you speak with Linda Johnson Sunday March 7, 2004 about not coming to work on Monday March 8, 2004? *Sat or Sun either day. No*

Did you speak with Kareem Vaughn Friday March 5, 2004 about not coming to work on Monday March 8, 2004? *No I didn't*

Did you speak with Kareem Vaughn Saturday March 6, 2004 about not coming to work on Monday March 8, 2004? *No*

Did you speak with Kareem Vaughn Sunday March 7, 2004 about not coming to work on Monday March 8, 2004?

Did you speak with Bruce Simmons Friday March 5, 2004 about not coming to work on Monday March 8, 2004? *No I didn't*

Did you speak with Bruce Simmons Saturday March 6, 2004 about not coming to work on Monday March 8, 2004?

Did you speak with Bruce Simmons Sunday March 7, 2004 about not coming to work on Monday March 8, 2004? *No I didn't.*

Did you speak with Kenneth Williams Friday March 5, 2004 about not coming to work on Monday March 8, 2004? *No I didn't.*

Did you speak with Kenneth Williams Saturday March 6, 2004 about not coming to work on Monday March 8, 2004?

Did you speak with Kenneth Williams Sunday March 7, 2004 about not coming to work on Monday March 8, 2004? *No I didn't.*

Did you speak with Guy Wench Friday March 5, 2004 about not coming to work on Monday March 8, 2004? *I don't think I seen Guy on Friday. No, I didn't.*

Did you speak with Guy Wench Saturday March 6, 2004 about not coming to work on Monday March 8, 2004?

Did you speak with Guy Wench Sunday March 7, 2004 about not coming to work on Monday March 8, 2004? *No, I didn't.*

*If they answer negatively to all the above questions:* Did you talk with Murry Culberson Sunday, March 7, 2004 about not coming to work on Monday, March 8, 2004?

*No I didn't.*

Why would Management be told that Department 32 employees talked about not coming into work on March 8, 2004 if it wasn't true?

*I don't know I will be honest with you, I have always been by myself.*

For the record, do you have anything further that you would like to add?

*I really want to know why you are messing with me. You call me and make a threat to me I'm sick. I'm not ~~at~~ entitled to get sick. If someone told you that, bring them to me.*

Time out: 6:51 pm

Time back: \_\_\_\_\_

This concludes the questions that we have. We reserve the right to continue this interview if further information pertinent to this case comes available.

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, et al.,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	

DECLARATION OF REBECCA OSTER IN SUPPORT OF DEBTORS' SUPPLEMENTAL  
REPLY WITH RESPECT TO PROOF OF CLAIM 12083 (DONNA WILSON)

("REBECCA OSTER – DONNA WILSON")

Rebecca Oster declares as follows:

1. Delphi Corporation and certain of its subsidiaries and affiliates are debtors and debtors-in-possession in these chapter 11 cases ("Delphi" or the "Debtors"). I submit this declaration in support of the Debtors' Supplemental Reply With Respect To Proof Of Claim 12083 (Donna Wilson) (the "Supplemental Reply"). Capitalized terms not otherwise defined in this declaration have the meanings ascribed to them in the Supplemental Reply.

2. I am a Labor Relations Administrator for Delphi, at 3900 Holland Avenue, Saginaw, Michigan, where I have worked since 2002. I was awarded a Bachelors Degree in Business Administration by Saginaw Valley State University in 1999 and received a Masters Degree in Human Resources from Central Michigan University in 2000.

3. Except as otherwise indicated, all facts set forth in this declaration are based upon my personal knowledge, my review of relevant documents, my opinion, and my experience with and knowledge of Donna Wilson's employment at Delphi. If I were called upon to testify, I could and would testify to the facts set forth herein.

4. On the morning of Tuesday, March 9, 2004 Component Valve Stream Manager Leigh Ochoa informed me of a possible work stoppage, where nine individuals did not report for work at the beginning of their B shift on March 8, 2004, in Department 32 of Plant 6 ("Plant") in Saginaw.

5. Ochoa explained that she believed it was an organized work stoppage based on (i) Culberson and Williams comments when she telephoned them; (ii) the comment that a B shift staff member that showed up for work made to Dan Rytlewski about some staff being upset about the termination of Tommie Gipson their shift supervisor and calling off work; (iii) the sheer coincidence that seventy percent of the staff was absent from work on the same day;

and (iv) the close proximity in time between the termination of their shift supervisor and these mass absences. I explained that I planned to seek advice from my supervisor, Robert Berg, about how best to handle this situation and then get back to her.

6. A few hours later, I contacted Ochoa and suggested we handle the incident using a certain approach, which we subsequently began implementing. We decided that we would conduct interviews contemplated by Paragraph 76(a) of the CBA with each B shift employee who missed any work that Monday, March 8. We also determined it was appropriate to indefinitely suspend the employees pending our review of the interviews and any other investigation needed because their conduct appeared to be part of an organized work stoppage in violation of Paragraph 117 of the CBA.

7. As each employee arrived to work who had been absent on Monday, general supervisors Bryan Ehlman or Rytlewski verbally informed them that they were on notice, as is required under the CBA of any potential shop rule violation. We did not want the employees to have time to compare and develop consistent stories about the incident on Friday regarding Gipson or their absence or return to the workplace on Monday after being absent until such time as we were able to interview all of the employees. Accordingly, we arranged to have all employees absent on Monday be led to and remain in a conference room with Art Huber and me, another of my colleagues from Labor Relations, until they could be interviewed. I do not recall knowing the race of the individuals involved in the work stoppage before seeing them in that conference room.

8. With the input of Robert Berg, I developed a set of questions for the person conducting the interview to ask each employee. One by one each employee was removed

from the conference room and individually interviewed by either Ehlman or Stange pursuant to Paragraph 76(a) the CBA with Union Representative Salvatore Cozzolino also present.

9. Before all of the interviews could be conducted, we determined that Ehlman needed to leave for the evening because he had worked the entire A shift and well into the B shift. Stange finished the remainder of the interviews. I stayed until the interviews were completed. It was agreed that Ochoa, Ehlman, and I would read all of the notes of the interviews and then decide what to do with respect to the employees who were absent on Monday.

10. On Wednesday, March 10, 2004, I arrived at work in the morning and proceeded to read all the 76(a) interviews from the nine employees that did not report to work on March 8, 2004. Later that morning, I spoke with Ochoa and Ehlman. We determined that the indefinite suspensions should be converted to suspensions for the balance of the shift plus 30 days without pay. We decided to give a lighter disciplinary action to Culberson and Williams, inasmuch as Ochoa had intimated to them on the phone that if they came in on Monday, the disciplinary action would be lighter. Participating in an illegal work stoppage was a dischargeable offense under the CBA. With respect to the other seven employees, we determined a less severe discipline was appropriate given that our investigations had not to date revealed any direct admissions that the absent employees were engaged in an illegal work stoppage. On the other hand, the offense was very serious and occurred at a particularly critical production time for the department so we needed to respond with appropriate disciplinary action.

11. With respect to Wilson, we did investigate her claim that she was at a doctor appointment on March 8 by contacting her doctor's office, and her doctor's office confirmed that she scheduled and made her appointment on March 8. We agreed that the note and her doctor visit were not sufficient evidence to overcome the likelihood that she participated

in the work stoppage by planning a doctor appointment to coincide with the planned work stoppage.

12. Wilson was disciplined because she did not report for work on that date.

In fact, if any of the Caucasian employees on B shift had failed to report to work, Delphi management would have disciplined them in the same manner as Wilson.

13. That same day, the United Automobile Workers ("UAW") filed grievances on behalf of all workers suspended as a result of the disciplinary actions resulting from the March 8 incident. As a result of that grievance process, Delphi agreed to reduce the suspension to fourteen days plus the balance of the shift on which the employees were suspended, with the condition that the employees are assigned to a different department. Wilson consented to the grievance settlement.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing statements are true and correct.

Executed on February 1, 2007, in Saginaw, Michigan.

/s/ Rebecca Oster  
Rebecca Oster

# **EXHIBIT E**



Hearing Date: March 1, 2007  
Hearing Time: 10:00 a.m. (Prevailing Eastern Time)

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<http://www.delphidocket.com>

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:		
In re	:	Chapter 11	
	:		
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)	
	:		
	:	(Jointly Administered)	
Debtors.	:		
-----	-	x	

DEBTORS' SUPPLEMENTAL REPLY WITH RESPECT TO PROOF  
OF CLAIM NUMBER 6255 (EDITH JAMES)

("SUPPLEMENTAL REPLY – EDITH JAMES")

Delphi Corporation ("Delphi") and certain of its subsidiaries and affiliates, debtors and debtors-in-possession in the above-captioned cases (collectively, the "Debtors"), hereby submit this Supplemental Reply (the "Supplemental Reply") With Respect To Proof Of Claim Number 6255 (the "Proof of Claim") filed by Edith James ("James"), and respectfully represent as follows:

#### Introduction

1. James is a former Manufacturing Advisor at a DAS LLC facility, who, a little more than a year after being hired by DAS LLC, applied for a position in human resources at the same facility after the person holding that position announced his retirement. Despite having less experience at DAS LLC and in the human resources field than two other applicants for the same position, James was offered the human resources position. Despite being offered assistance, training, and clerical help, James struggled in her new position and failed to meet performance objectives. After one year, DAS LLC decided to transfer her back to her prior position, where she had performed successfully, and returned her at the same salary grade. DAS LLC then transferred another employee to handle most of the responsibilities of James' position, because that employee had more experience in the human resources field and at DAS LLC than James had.

2. Contrary to James's contentions, all of DAS LLC's decisions regarding James were based on legitimate business reasons and were not discriminatory. James has not established that she was subject to an adverse employment action or that similarly situated employees were treated more favorably on account of her membership in a protected class. In addition, James's claim is excessive and unfounded because she failed to mitigate her damages

and her claim for emotional distress was dismissed in her underlying litigation against DAS LLC. Accordingly, James' proof of claim should be disallowed and expunged in its entirety.

Background

3. James filed the Proof of Claim on or about May 18, 2006. The Proof of Claim asserts an unsecured, unliquidated claim in the amount of \$1,131,000.00 (the "Claim") against Delphi Automotive Systems LLC ("DAS LLC").

4. The Debtors objected to the Claim pursuant to the Debtors' (i) Third Omnibus Objection (Substantive) Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To Certain (a) Claims With Insufficient Documentation, (b) Claims Unsubstantiated By Debtors' Books And Records, And (c) Claims Subject To Modification And (ii) Motion To Estimate Contingent And Unliquidated Claims Pursuant To 11 U.S.C. § 502(c) (Docket No. 5452) (the "Third Omnibus Claims Objection"), which was filed on October 31, 2006.

5. James filed her Response To Debtors' Third Omnibus Objection (Substantive) Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To Certain (a) Claims With Insufficient Documentation, (b) Claims Unsubstantiated By Debtors' Books And Records, And (c) Claims Subject To Modification (Docket No. 5655) (the "Response") on November 22, 2006.<sup>1</sup>

6. On January 3, 2007 the Debtors filed their Statement of Disputed Issues With Respect To Proof Of Claim 6255 (Edith James) (Docket No. 6407) (the "Statement of Disputed Issues").

---

<sup>1</sup> James has not filed a supplemental response to the Third Omnibus Claims Objection. Pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims (the "Claims Objection Procedures Order"), the deadline for James to file a supplemental response and attach affidavits or declarations thereto was January 18, 2007.

Argument

A. DAS LLC Modified The Position In Question, And Subsequently Removed James From The Position For Legitimate, Non-Discriminatory Reasons

5. James was hired as a Manufacturing Advisor at DAS LLC's Columbus, Ohio facility (the "Columbus Facility") in May 1999. Underlying Complaint, attached as Exhibit A to Response, ¶ 6. In that position, she supervised hourly employees working on the assembly line. Exhibit B to Response § A. It was a salaried position, but James received overtime pay. Declaration of James Barr ("Barr") ¶ 13 (the "Barr Decl.") attached here too as Exhibit A.

6. In 2000, Frank Cerny ("Cerny"), Supervisor of Salaried Personnel Administration, announced his retirement from DAS LLC. Declaration Of Loretta Woolridge ("Woolridge") ¶ 6 (the "Wooldridge Decl.") a copy of which is attached hereto as Exhibit B. Defendant Loretta Woolridge, an African-American female and Personnel Director of the Columbus Facility, asked him to create a posting for his position. Woolridge Decl. ¶ 7. At the time, DAS LLC was undergoing an internal push to cut costs by reducing the number of salaried employees. Id. Because the Columbus facility had decreased in size over the years, many of the HR positions had become less demanding. Barr Decl. ¶ 16. As part of this reduction in DAS LLC's workforce, the duties of many salaried positions were consolidated with those of existing positions, reducing the overall number of salaried positions in the plant. Woolridge Decl. ¶ 7; Barr Decl. ¶ 16.

7. After James expressed interest in the position, Woolridge informed James that the position Cerny left had been modified. Woolridge explained to James that the new position would be a one-person function, that it would no longer be a supervisory position, and that it would include the duties of the Salaried Training and Education job, which was being eliminated. Woolridge Decl. ¶ 10. After explaining these modifications, Woolridge gave James

the opportunity to withdraw from consideration for the Position. Id.

8. Woolridge made a list ranking the applicants she had interviewed. Woolridge's first choice for the Position was a Caucasian male working at Delphi's Sandusky, Ohio plant as a Senior Salaried Personnel Representative. Woolridge Decl. ¶ 11. Management decided against giving the Position to the Caucasian male from the Sandusky Plant, as doing so would have increased the Columbus plant's salaried head count. Id. Her second choice was a Caucasian female employed at the Columbus Facility in the Finance Department. Woolridge Decl. ¶ 12. Management also decided against giving the job to the Caucasian female in the Finance Department, as it was determined that her talents were better utilized in the Finance Department. Id. Woolridge's third choice was James. Woolridge Decl. ¶ 13. Woolridge felt that James had demonstrated some of the attributes needed to perform the Position job, but that, unlike her first two choices, James did not have sufficient Delphi experience or human resources background to allow her to "hit the floor running" in the Position. Id.

9. James was therefore offered the Position of Salaried HRM Administrator in the Salaried Personnel Office of Delphi Columbus's Human Resources Department over both Caucasian and male applicants. Woolridge Decl. ¶ 13. When Woolridge offered James the Position, she reiterated that the Position had been modified, that it was no longer a supervisory position, and that it would now include education and training duties. Woolridge Decl. ¶ 16. Woolridge also stated that management had hoped to give the position to a more qualified candidate, but that, because they were unable to do so, James was being given an opportunity to take the position and "grow into" it. Woolridge Decl. ¶ 17. Because James had been with DAS LLC for just over a year, had no experience with DAS LLC's human resources functions, and would face a steep learning curve in the Position, Columbus management decided to deem her

move to the post as a lateral transfer and classify it as a "developmental opportunity." Woolridge Decl. ¶ 14. Nothing about James' race or gender played a role in that decision. Woolridge Decl. ¶ 28. It was common, in situations when taking advantage of a developmental opportunity, for Delphi to replace seventh level with sixth level employees, without promoting the sixth level employee, and Woolridge recalled other instances in which Caucasian employees were treated in the same fashion. Woolridge Decl. ¶ 15.

10. DAS LLC placed James in the new position (the "Position") in early January to provide her as much on-the-job training with Cerny as possible. Woolridge Decl. ¶ 18. Upon beginning the Position, James inquired about the lack of a pay increase. Woolridge Decl. ¶ 19. James met with Woolridge to discuss this issue, and Woolridge told James that she was remaining at her level 6 salary code because her move to the new position had been deemed a developmental opportunity by management, and thus a lateral transfer and not a promotion. Id. Woolridge further explained that James would have the opportunity to prove her abilities, grow into the job, and at a future point be considered for a promotional increase to level 7 if one were warranted. Id. Woolridge told James that, if she would like to reconsider her assignment to the new position, the assignment could be reversed and James could return to her Manufacturing Advisor job. Id. James did not elect to return to her Manufacturing Advisor position. Id.

11. James spent January shadowing Cerny, except for short periods of time she spent learning about the training and education duties and training her own Manufacturing Advisor replacement. Woolridge Decl. ¶ 20. Cerny trained James in all the essential functions of the Position, including the Merit Compensation Plan, the Affirmative Action Plan, the salaried personnel database, and the plant equal employment opportunity ("EEO") target database. Id. During their month together, James never accepted Cerny's offers to stay late for

extra training, and she never requested any additional training from him. Id.

12. After Cerny retired, he remained available to James to answer any questions she had. Id. Marcia Brown, who had worked under Cerny but who was reassigned elsewhere within the plant, also helped James by answering James' questions. Id. In addition, James was instructed to call Salaried Personnel Representatives at other plants with questions, and members of corporate management for help and advice. Woolridge Decl. ¶ 21. James spent time with Sandy Swanson, Senior Salaried Personnel Representative at Delphi's Vandalia plant, reviewing Swanson's Affirmative Action Plan and asking questions about her job. Woolridge Decl. ¶ 22. Moreover, Sherry Rice, a clerical employee, was assigned to the Salaried Personnel office part-time to assist James by entering training data into the database, which constituted the bulk of the education and training responsibility. Woolridge Decl. ¶ 23. Rice also assisted by answering the phone, typing letters, organizing documents, filing information in employee records, and performing other clerical tasks. Id.

13. Although in prior years, the Salaried Personnel position at Delphi Columbus had been even more challenging because the individual in that position oversaw many more employees, the new position that James assumed in 2001 was still demanding. The Position, which reported directly to the plant Personnel Director, was responsible for, among other things (i) administering the plant Merit Compensation Plan, by which salaried employees at the Columbus facility receive annual pay increases; (ii) administering the Personal Business Plan process, by which salaried employees receive performance objectives and reviews; (iii) keeping track of the plant salaried "head count," by entering new hires, transfers, and terminations into the human resources ("HR") database and ensuring that the database's accuracy; (iv) administering the plant Affirmative Action Plan and EEO database; (v) providing information to

salaried employees regarding DAS LLC HR policies; and (vi) training. Woolridge Decl. ¶ 5.

14. James struggled with the new Position and continued to perform poorly even after she had been in the job for several months. Barr Decl. ¶ 6-8. Woolridge and her successor, Jim Barr ("Barr"), received numerous complaints from members of DAS LLC's management about James's performance. Woolridge Decl. ¶ 24; Barr Decl. ¶ 7. James frequently reported incorrect salary head count data at Human Resources Management ("HRM") meetings, causing significant delays and confusion at those meetings. Barr Decl. ¶ 10. James also missed deadlines for the EEO reporting program, the plant Affirmative Action Plan, and the Plant Personal Business Plan program. Id.

15. When Woolridge reviewed James's performance in August of 2001, Woolridge indicated that James was "behind target" with regard to the Columbus Facility's Affirmative Action Plan, quarterly training schedule, and Personal Business Plan administrative duties. Woolridge Decl. ¶ 25. Woolridge also noted mistakes in James's administration of the facility's 2001 Merit Compensation Plan. Id.

16. By the end of 2001, James's performance still had not improved. Barr concluded that James had not met five of her ten performance objectives. Barr Decl. ¶ 8. Specifically, she consistently (i) failed to provide the HRM committee with accurate salaried headcount data; (ii) failed to obtain access to the CTIS system training record system, as she had been instructed to do; (iii) failed to complete the Columbus Facility's Affirmative Action Plan on time, resulting in Columbus being listed as a "no report" at Delphi's annual corporate executive review; (iv) failed to create a quarterly training schedule; and (v) failed to perform a "value stream" analysis of the Position's employment document processing procedures. Id. Further, Barr noted that there had been "significant issues with employees not receiving proper



compensation" due to James's errors in calculating year 2001 merit compensation increases.

Barr Decl. ¶ 9. These were all very serious problems. See Barr Decl. ¶ 8-11.

17. Despite her struggles in the Position, her poor reviews, and the fact that long days are the norm in the Columbus HR Department, James refused to put in long days or to work weekends. Barr Decl. ¶ 11.

18. In light of James's performance and dissatisfaction with the new position, Delphi management decided that James was not the right "fit" for the job and decided to transfer her back to the Manufacturing Advisor position, in which she had performed successfully. Barr Decl. ¶ 12. James was to retain her existing salary grade in the Service Department and was to once again have supervisory authority over hourly employees and receive overtime pay. Barr Decl. ¶ 13. Near the end of January 2002, during his Personal Business Plan review with James, Barr informed James of this decision. Id.

19. In late 2001 or early 2002, Delphi management asked Michael Waters ("Waters"), an Executive Compensation Analyst employed in the Human Resources Department at Delphi's corporate headquarters in Troy, Michigan, to replace James in the Salaried Personnel Position. Barr Decl. 14. In addition to his experience as an Executive Compensation Analyst in Delphi's Corporate HR Department, Waters has a degree in business administration, with a major in human resources management, and had held a Compensation Manager position in the human resources department of another company before working for Delphi. Id. In light of his years of experience, his prior excellent performance at Delphi, and his agreement to relocate to Columbus, Waters was placed in the Salaried Personnel position at a salary code 7C. Id.

20. On or around March 2002, about a month and a half after James returned to the first shift Manufacturing Advisor position, Delphi needed to move a Manufacturing

Advisor from the Service Department to the North Business Unit on second shift due to internal shifting of Manufacturing Advisors. Barr Decl. ¶ 14. Because James had been in the Service Department for a shorter length of time than the other Manufacturing Advisors, and because she had previously worked in the North Business Unit, management decided to move James into the position. Id. James's Supervisor, Daryl Thomas, was responsible for informing her that she was going to be transferred to the North Business Unit. Barr, James' former supervisor, was not involved in the decision to move James to the North Business Unit. Barr Decl. ¶ 19. James preferred first shift and refused to move to second shift. James quit without giving notice. Barr Decl. ¶ 19.

21. All of DAS LLC's decisions with respect to James were motivated by legitimate business reasons and were in no way discriminatory. Barr Decl. ¶ 21; Woolridge Decl. ¶ 28.

B. Debtors Did Not Discriminate Against James

22. James has not established valid race or gender discrimination claim. Because James failed to file a Supplemental Response with affidavits or declarations of any witnesses she intends to present at trial, she must rely on her Proof of Claim and Response. Her Proof of Claim and Response fail establish a claim for discrimination.

23. As James pointed out in her Response, to prevail on a race or gender discrimination, she needed to establish (1) that she is a member of a protected class, (2) that she was subject to an adverse employment action, and (3) that there were similarly situated non-protected employees who were treated more favorably. See Shah v. General Electric Co., 816 F.2d 264, 270 (6th Cir. 1987); Brewer v. Cleveland City Bd. of Educ., 122 Ohio App. 3d 378, 385 (8th Dist. 1997). Although she established that she is a member of a protected class, James

has not established that she was subject to an adverse employment action or that similarly situated employees were treated more favorably on account of her membership in that protected class.

24. The Debtors have established that DAS LLC's actions were motivated by legitimate, non-discriminatory reasons. Although, under the McDonnell Douglas framework, James has the opportunity to demonstrate that DAS LLC's reasons were merely pretextual, she has not done so. McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973).

25. Contrary to her assertions, James was not subject to an adverse employment action. A "lateral transfer" not involving a "decrease in title, pay, or benefits" does not constitute an adverse employment action. Henry v. Ohio Dept. of Mental Retardation & Developmental Disabilities, 162 F. Supp. 2d 794, 800-01 (S.D. Ohio 2000); see also Russell v. Drabik, 2001 WL 1556996 at \*4 (6th Cir. 2001); Broska v. Henderson, 2003 WL 21518733 at \*4 (6th Cir. June 30, 2003). "[N]ot everything that makes an employee unhappy is an actionable adverse action. Otherwise, minor and even trivial employment actions that an . . . employee did not like would form the basis of a discrimination suit." Goad v. Sterling Commerce, Inc., 2000 WL 756386 at \*7 (Ohio Ct. App. 10th Dist. June 13, 2000) (citation omitted). Her move to the new Position from her old position was a lateral transfer, as was her move back. Woolridge Decl. ¶ 17. When James expressed displeasure that she had not been promoted, Woolridge offered to return her to the Manufacturing Advisor position, which James refused. Woolridge Decl. ¶ 22. In her original position as Manufacturing Advisor, James made more money than she did in the Salaried Personnel Position and had supervisory authority over employees.

26. Furthermore, James was not constructively discharged. Under Ohio law, the denial of a promotion does not amount to an "intolerable work condition[]" such that a

reasonable person would feel compelled to resign her employment. Goad, 2000 WL 756386 at \*9 (citation omitted). In fact, by James's own admission, when she attempted to resign from the Position in August 2001, her resignation was not accepted. Resp. Ex. F. James cannot demonstrate any adverse employment action necessary to prove a prima facie case of discriminatory treatment.

27. Moreover, James failed to establish that similarly situated employees were treated more favorably – an independent reason why her claim fails. Cerny and Waters were not similarly situated with James. "[T]o be deemed 'similarly situated,' the individuals with whom the plaintiff seeks to compare his/her treatment must have dealt with the same supervisor, have been subject to the same standards, and have engaged in the same conduct without such differentiating or mitigating circumstances that would distinguish. . . the employer's treatment of them. . . ." Mitchell v. Toledo Hospital, 964 F.2d 577, 583. (6th Cir. 1992); Jackson v. Champaign Nat'l Bank & Trust Co., 2000 WL 1376534 at \*5, 6 (Ohio Ct. App. 10th Dist. Sept. 26, 2000).

28. Cerny was not similarly situated to James. Cerny was placed in the Salaried Personnel Position in 1992, when Delphi was still a division of General Motors, after decades of working in other positions in the Columbus Facility's Human Resources Department. Woolridge Decl. ¶ 6. Cerny did not enter the Human Resources Department at a level 7 pay code. He was promoted to a level 7 after years of working in the Department. Id. Moreover, unlike James, Cerny was competent in the performance of his duties. Id. James has no evidence that the same decision-makers who placed Cerny in the job in 1992 made the decision in 2000 to place her in, or to remove her from, the Position.

29. Nor was Michael Waters similarly situated to James. Unlike James, who

moved to the Human Resources Department from the Manufacturing Department, Waters began his Delphi career in Delphi's Corporate Human Resources Department. Barr Decl. ¶14. Waters has a degree in business administration, with a concentration in accounting, and had extensive experience in HR positions. Id. Delphi Safety and Interior Divisional Management in Troy, Michigan, not Delphi Columbus management, selected him for the Salaried Personnel Position. Id. Furthermore, Waters was not given preferential treatment after accepting the Position. After he took the Salaried Personnel Position, the part-time clerical assistant, Sherry Rice, was reassigned to another position, leaving Waters with no clerical help. Id.

30. The appropriate pool of similarly situated workers would have been those who applied for the Position along with James. The undisputed facts establish that James was given the Position, even though better qualified Caucasian male and female candidates were denied the Position. Woolridge Decl. ¶ 11-13. The record also shows that the additional job duties she complains of were added before James was selected for the job. Woolridge Decl. ¶ 9.

31. Even had she established a claim for discrimination, James would also bear the ultimate burden of proving "that the stated non-discriminatory reason for the adverse employment action against [her] is pretextual." Jones, 162 F. Supp. 2d at 825; Clark v. City of Dublin, 2002 WL 465013 at \*7..8 (Ohio Ct. App. 10th Dist. March 28, 2002). The question is whether James has established that the employer did not give the real explanation for its behavior, not whether the Court disagrees with the reason for the action. Bush v. Honda of America Motor Co., Inc., 227 F. Supp. 2d 780, 796-98 (S.D. Ohio 2002).

32. James has not met her burden. She has not shown that DAS LLC acted based on anything other than sound business reasons. The Debtors have established that DAS LLC consolidated salaried personnel positions in response to a mandate to lower head count in

that department and not for any other reason. The Debtors have also established that James was returned to her Manufacturing Advisor position because she failed to perform the duties of the Salaried Personnel Position and for no other reason. These legitimate, non-discriminatory reasons for DAS LLC's actions have not been, and cannot be, refuted.

B. James's Claim Is Excessive And Unfounded

33. Even if James had made a case for employment discrimination, she failed to mitigate her damages and therefore her damages, if any, should be limited, and her Claim should be reduced accordingly. In addition, James states that the Claim was based on "unliquidated damages for discrimination and emotional distress." Proof of Claim, § 6. James's emotional distress claims were dismissed by the lower court in the Underlying Matter, and that dismissal was upheld on appeal. See Response Ex. C. Thus, even if she were able to establish a claim for employment discrimination, James cannot recover for damages associated with her alleged emotional distress.

Conclusion

34. James has failed to establish a claim against DAS LLC. DAS LLC did not discriminate against James. DAS LLC acted based on legitimate business reasons when it transferred James within the company. Accordingly, DAS LLC is not liable to James, and the Proof of Claim should be disallowed and expunged.

Reservation Of Rights

35. This Supplemental Reply is submitted by the Debtors pursuant to paragraph 9(f) of the Claims Objection Procedures Order. Consistent with the provisions of the Claims Objection Procedures Order, the Debtors' submission of this Supplemental Reply is without prejudice to (a) the Debtors' right to later identify and assert additional legal and factual

bases for disallowance, expungement, reduction, or reclassification of the Claim and (b) the Debtors' right to later identify additional documentation supporting the disallowance, expungement, reduction, or reclassification of the Claim.

Memorandum of Law

36. Because the legal points and authorities upon which this Reply relies are incorporated herein, the Debtors respectfully request that the requirement of the service and filing of a separate memorandum of law under Local Rule 9013-1(b) of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York be deemed satisfied.

WHEREFORE the Debtors respectfully request that this Court enter an order (a) disallowing and expunging the Claim and (b) granting the Debtors such other and further relief as is just.

Dated: New York, New York  
February 1, 2007

SKADDEN, ARPS, SLATE, MEAGHER  
& FLOM LLP

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## **EXHIBIT A**

**Hearing Date: March 1, 2007**  
**Hearing Time: 10:00 a.m. (Prevailing Eastern Time)**

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
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DECLARATION OF JAMES BARR

Pursuant to 28 U.S.C Section 1746, I, James Barr, declare the following:

1. My name is James Barr. I am over age 18 and have personal knowledge of the facts contained in this declaration. I am competent to testify to the facts contained herein.

Capitalized terms not otherwise defined in this declaration have the meanings ascribed to them in the Supplemental Reply.

2. Except as otherwise indicated, all facts set forth in this declaration are based upon my personal knowledge, my review of relevant documents, my opinion, and my experience with and knowledge of Delphi's relationship with Edith James. If I were called upon to testify, I could and would testify to the facts set forth herein.

3. I began working with General Motors in 1978 at its Columbus, Ohio facility on Georgesville Road and which is now Delphi Automotive Systems LLC's ("DAS LLC") Columbus, Ohio Facility. I have been continuously employed at this facility since 1978. I worked in production from 1978 until 1993. From 1978 to 1979, I worked as an hourly employee at the Columbus Facility. From 1979 to 1993, I worked as a production supervisor, which was a salaried position. From 1993 to 1999, I was a productivity coordinator. From 1999 to November 2001, I held the position of supervisor of labor relations and hourly employment.

4. From September 2001 to November 2001, I was the interim Plant Personnel Director and replaced Loretta Woolridge. In November 2001, I became the Plant Personnel Director. When I assumed the position, Edith James was employed in the Salaried Personnel Position, which was a nonsupervisory position.

5. Ms. James reported directly to me and her job duties consisted of tracking and maintaining databases concerning head count, which included generating reports related to head count and making sure records properly reflected where employees were assigned. Ms. James was also responsible for Equal Employment Opportunity ("EEO") issues. Ms. James was

responsible for overseeing the administrative duties relating to the transfer of salaried people between jobs and between plants. Ms. James also was responsible for managing salaried employees' compensation issues and administering the performance review process. Ms. James was also responsible for administering the affirmative action program at the plant and making timely reports regarding affirmative action.

6. Although there was a training and education component to the salaried personnel representative position that included entering training data into the CTIS system, Ms. James did not complete any of those training duties when she was in that position. Ms. James was unable to perform the core job duties of her salaried personnel representative position and thus did not even begin to address the training and education component. Any CTIS data entry that was completed was done by Sherry Rice, and to the extent any training occurred, it was handled almost exclusively by people other than Ms. James.

7. After I replaced Ms. Woolridge, I reviewed Ms. James's performance and concluded that she had not met five of her ten performance objectives. I also received complaints from several members of Delphi management about Ms. James's performance, which were included in her Personal Business Plan.

8. I conducted Ms. James' performance review on January 28, 2002. Ms. James' performance was not acceptable. Specifically, Ms. James failed to meet almost all of her performance goals. For example, Ms. James had consistently failed to: (1) provide the HRM committee with accurate salaried headcount data; (2) obtain access to the CTIS training record system, as she had been instructed; (3) complete the Columbus facility's Affirmative Action Plan on time, resulting in Columbus being listed as a "no report" at Delphi's annual corporate

executive review; (4) create a quarterly training schedule; and (5) perform a "value stream" analysis of the position's employment document processing procedures. Additionally, Ms. James failed to expand the knowledge of Delphi employees regarding HRM policies and procedures by initiating periodic review of the Employee Handbook and policy manuals.

9. Moreover, Ms. James failed to properly administer the 2001 Merit Compensation Plan, which led to significant issues with salaried employees not receiving proper compensation. Ms. James also failed to properly administer the 2001 Personal Business Plans, which are performance reviews for employees, and to adhere to audit submission deadlines.

10. Ms. James frequently reported incorrect salary headcount data at Human Resources Management meetings, causing significant delays and confusion at those meetings. Ms. James also missed deadlines for turning in EEO data and for administering the plant Affirmative Action Plan.

11. As noted in her evaluation Ms. James did not appear to embrace bottom line accountability or display an appropriate sense of urgency. She appeared to lack skills to multi-task effectively and appeared to lack initiative and follow-up, resulting in missed assignments. Ms. James's long learning curve resulted in a credibility gap with the organization. Ms. James also failed to put in the necessary hours or work weekends, which was the norm in her position. As a consequence of these serious performance deficiencies, I gave Ms. James the lowest performance rating, which was unsatisfactory.

12. In light of Ms. James's poor performance in the Salaried Personnel Position, Delphi HRM Committee determined that Ms. James was not the right fit for the job and

decided to transfer her back to the Manufacturing Advisor position, in which she had in the past performed successfully. I was a member of the HRM Committee and participated in making the decision to transfer Ms. James back to the Manufacturing Advisor position.

13. Near the end of January 2002, during my Personal Business Plan review with Ms. James, I informed her of the decision to transfer her back to the Manufacturing Advisor position. On March 1, 2002, Ms. James was transferred to a Manufacturing Advisor position in the Service Department on first shift. She remained at her same salary grade, earned overtime pay, and had supervisory authority over hourly employees.

14. Michael Waters, an Executive Compensation Analyst employed in the Human Resources Department at Delphi's corporate headquarters in Troy, Michigan, replaced Ms. James in the Salaried Personnel position. In addition to his experience as an Executive Compensation Analyst in Delphi's Corporate HR Department, Mr. Waters has a degree in business administration, with a major in human resources management, and had held a Compensation Manager position in the human resources department of another company before working for Delphi. Mr. Waters was placed in the Salaried Personnel position at a salary code 7C by Delphi Safety and Interior Divisional Management in Troy, Michigan. When Mr. Waters took on the position, the part-time assistant clerical assistant was reassigned.

15. Delphi's salaried positions are continually being re-evaluated and job duties are frequently transferred to people with the appropriate skill set and time to handle projects. In my experience, it is not unusual for Delphi to move Manufacturing Advisors into administrative positions at their existing 6th level salary code, even when they were replacing a 7th level employee because of their relevant experience.

16. Moreover, Delphi's Columbus facility has repeatedly seen a loss of employees. In 1991, the Columbus facility had more than 1,769 hourly employees. When Ms. James worked in the HR Department in 2001, there were 1,068 hourly employees. In 1991, there were 307 salaried employees. In May 2001, there were only 150 salaried employees. As a result, the number of people needed to work in HR has significantly decreased over the years and job duties performed by remaining individuals have changed. Moreover, it was common in this period for Delphi Management to realign and combine job duties among salaried personnel.

17. When Mr. Waters assumed the job, the Salaried Personnel office was in disarray. Ms. James had failed to properly label file drawers. File boxes were not properly stored and were on top of file cabinets, on floors, under chairs, and above coat racks. Mr. Waters found unlabeled boxes filled with miscellaneous documents that needed to be filed. Ms. James also failed to keep personnel files organized and many of the personnel records were misfiled.

18. The education and training function, which had technically been a part of Ms. James's job responsibilities but which she never actually performed, was reassigned to Patricia Scott when Mr. Waters started. Patricia Scott was the Internal Plant Quality Auditor, a salaried employee, in the Quality Department. Delphi's collective bargaining agreement requires that Delphi appoint a salaried employee to help coordinate training with the United Auto Workers ("UAW"). However, the UAW appointee handles most of the hourly training. Ms. Scott had the experience and the capacity to take on these limited education and training functions. Ms. Scott's primary responsibility was to catch up on the backlog of CTIS entries that were not attended to under Ms. James' tenure.

19. About a month and a half after Ms. James returned to the first shift Manufacturing Advisor position Delphi needed to move a Manufacturing Advisor from the Service Department to the North Business Unit on second shift due to internal shifting of Manufacturing Advisors. Because Ms. James had been in the Service Department for a shorter length of time than the other Manufacturing Advisors, and because she had previously worked in the North Business Unit, management decided to move Ms. James into the position. I was not responsible for that decision; it was made by her supervisor and the manager of operations.

20. Ms. James refused to move to second shift and quit without notice.

21. Ms. James' gender and race were not factors in the decisions that were made regarding her employment. Additionally, Ms. James did not suffer any loss of pay or other damages when she transferred to the Manufacturing Advisor position.

22. I declare under penalty of perjury that the foregoing facts contained in this Declaration are true and correct.

Executed on February 1, 2007 in Columbus, Ohio.

/s/ James Barr

James Barr



## **EXHIBIT B**

**Hearing Date: March 1, 2007**

**Hearing Time: 10:00 a.m. (Prevailing Eastern Time)**

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	x	

DECLARATION OF LORETTA NASH WOOLRIDGE

Pursuant to 28 U.S.C Section 1746, I, Loretta Woolridge, declare the following:

1. My name is Loretta Nash Woolridge. I am over age 18 and have personal knowledge of the facts contained in this declaration. I am competent to testify to the facts contained herein. Capitalized terms not otherwise defined in this declaration have the meanings ascribed to them in the Supplemental Reply.

2. Except as otherwise indicated, all facts set forth in this declaration are based upon my personal knowledge, my review of relevant documents, my opinion, and my experience with and knowledge of Delphi's relationship with Edith James. If I were called upon to testify, I could and would testify to the facts set forth herein.

3. In January 2001, I was Plant Personnel Director at Delphi Automotive Systems LLC's ("DAS LLS") Columbus, Ohio facility.

4. In January 2001, Edith James was placed in the Salaried Personnel Position at DAS LLC's Columbus, Ohio facility. Previously, Ms. James was a Manufacturing Advisor at DAS LLC's Columbus, Ohio facility and was in salary grade 6B. When Ms. James took the Salaried Personnel Position, she retained her salary grade 6B and had no supervisory responsibility or authority in the new position.

5. The Salaried Personnel position that Ms. James assumed in 2001 reported directly to the plant Personnel Director and was responsible for, among other things: (i) administering the plant Merit Compensation Plan, by which salaried employees at the Columbus facility received pay increases; (ii) administering the Personnel Business Plan process, by which salaried employees receive performance objectives and reviews; (iii) keeping track of the plant salaried headcount, specifically entering new hires, transfers, and terminations into the Human Resources ("HR") database and ensuring that the database is accurate; (iv) administering plant

Affirmative Action Plan and Equal Employment Opportunity ("EEO") database; (v) providing information to salaried employees regarding Delphi HR policies; and (vi) training.

6. In May 2000, Frank Cerny was Supervisor of Salaried Personnel Administration. When I became his supervisor, I reviewed Mr. Cerny's employment file and learned that he had worked his entire career in the GM and subsequently Delphi Human Resources Department, in various position. Mr. Cerny had been at a seventh level pay rate for fourteen years before assuming the Supervisor of Salaried Personnel position. He earned that promotion after years of working in the department. See Cerny Employment History, attached hereto as Exhibit 1. Based on my interaction with Mr. Cerny, he was generally a good performer and competent to perform his job duties, and I did not experience the same sort of difficulties and poor performance with him as I experienced with Ms. James. In late 2000, Mr. Cerny announced that he would retire from Delphi.

7. Following Mr. Cerny's announcement, I asked him to create a posting for his position. At that time, DAS LLC was undergoing internal cost-cutting efforts by reducing the number of salaried employees. The duties of many salaried employees were consolidated with those of existing positions to achieve structural cost reductions for the plant.

8. Over the years, as the number of salaried employees decreased in the plant, the number of salaried employees in the personnel office was also reduced. By 2000, the Salaried Personnel Office had only two salaried employees, Mr. Cerny, Supervisor Salaried Personnel Administration, and Marcia Brown, Salaried Personnel Representative.

9. Because the duties of the office had decreased in recent years, DAS LLC determined that the positions held by Mr. Cerny and Ms. Brown could be combined into a single non-supervisory position. Delphi also determined that the Salaried Education and Training

position could be combined with Mr. Cerny's and Ms. Brown's positions, because those job duties and the plant population had been significantly reduced. The modified position was the Salaried Personnel Position, which was designed subsequent to Mr. Cerny's job posting.

10. DAS LLC received applications from employees at the Columbus Facility and other Delphi facilities for the Salaried Personnel Position. I interviewed candidates for the position. Following the consolidation of job duties, I informed candidates, including Ms. James, that it was not a supervisory position and that it would include the duties of a Salaried Training and Education job, which had been eliminated, as well as some of the duties of the prior Salaried Personnel department. After explaining the modifications to the employees, I gave candidates the opportunity to withdraw from consideration for the position. Ms. James was given the option of withdrawing, but she decided not to withdraw her name.

11. After interviewing all of the candidates, I created a list of my top three candidates for the position to present to the HRM Committee. My first choice for the position was a Caucasian male working at Delphi's Sandusky, Ohio plant as a Senior Salaried Personnel Representative. Delphi's management at the Columbus facility decided against giving the position to this individual, as he would increase the Columbus plant's salaried headcount.

12. My second choice for the position was a Caucasian female employee at the Columbus facility in the Finance Department. Local management decided against giving the job to this individual because her talents were better utilized in the Finance Department.

13. My third choice for the position was Ms. James. I felt that Ms. James had demonstrated some of the attributes to perform the personnel job, but that she did not have sufficient Delphi experience or Human Resources background to allow her to hit the floor running. It was the consensus of the HRM Committee that I should offer the position to Ms.

James. In addition to these three candidates there were other candidates, including a Caucasian male, who were not selected for the position.

14. Consequently, the Salaried Personnel position was offered to Ms. James. Because Ms. James had been with Delphi for a little more than a year and had no experience in Human Resources functions, I felt that Ms. James faced a steep learning curve in the position. The Plant Manager, Jan Santerre, and I decided that Ms. James' move to the position was a lateral transfer and was classified as a developmental opportunity. (Ms. Santerre left the Plant Manager position and DAS LLC in April 2001).

15. It was common for Delphi to replace 7th level with 6th level employees in contexts similar to James' where a seasoned employee vacated a position and it was used a developmental opportunity. In the past, Delphi had placed both male and Caucasian employees at the 6th level salary code when replacing 7th level employees.

16. In December 2000, I offered Ms. James the Salaried Personnel Position and reiterated to her that the position had been modified, as explained above. I told her that it was no longer a supervisory position and that it included the education and training duties.

17. I also informed Ms. James that DAS LLC had hoped to give the position to a more qualified candidate, but because they were unable to do so she would be given an opportunity to take the position and grow into it. I strongly emphasized at the time of the offer that her learning curve would be steep, but with her strong interest in the job and the support she would receive from the Human Resources department, we felt she could do it. Ms. James accepted the offer.

18. Ms. James was placed in the Salaried Personnel Position in early January 2001 so she could train with Mr. Cerny before he retired at the end of that month.

19. After Ms. James filled the Salaried Personnel Position, she met with me to discuss why she was remaining at her level 6 salary code. I reiterated that, given her inexperience, this was a developmental opportunity and, therefore, considered a lateral transfer. I also explained that in the future, with good performance, she could be considered for a promotional increase to level 7. I also told Ms. James that if she would like to reconsider her assignment to the Salaried Personnel job, the assignment could be reversed and she could return to her Manufacturing Advisory job. Ms. James felt comfortable that she could perform the job, even as modified.

20. Ms. James spent January 2001 shadowing Mr. Cerny, except for a short period of time that she spent learning about the training and education duties and training her Manufacturing Advisory replacement. Mr. Cerny trained Ms. James in all the essential functions in the Salaried Personnel Position, including the Merit Compensation Plan, the Affirmative Action Plan, the salaried personnel database, and the plant EEO target database. Mr. Cerny offered to stay late to offer additional training to Ms. James, but Ms. James declined the offer. Even after his retirement, Mr. Cerny remained available to answer Ms. James' questions by phone. Marcia Brown, who worked under Mr. Cerny, and was reassigned after his retirement, was also available to answer questions for Ms. James.

21. Ms. James was instructed to call Salaried Personnel Representatives of other plants with questions if they arose, as well as to call members of corporate management for help and advice.

22. Ms. James also spent time with Sandy Swanson, Senior Salaried Personnel Representative at Delphi's Vandalia plant, reviewing Ms. Swanson's Affirmative Action Plan and asking her questions about her job.

23. Ms. James was assisted by Sherry Rice, a clerical employee, who was assigned to the Salaried Personnel office part-time to assist in entering data into the database, which constituted the bulk of the education responsibility. Ms. Rice also assisted Ms. James by answering the phones, typing letters, organizing documents, filing information in employee records, and performing other clerical tasks.

24. I received numerous complaints from several members of Delphi's management team about Ms. James's performance.

25. In August 2001, I reviewed Ms. James's performance and indicated that Ms. James was behind target with regard to the Columbus Facility's affirmative action plan, quarterly training schedule, and Personnel Business Plan administrative duties. These were significant responsibilities of her position. I also noted mistakes in Ms. James's administration of the facility's 2001 Merit Compensation Plan.

26. In late August 2001, Ms. James submitted a letter of resignation. After some discussion, I was unable to convince her to remain with DAS LLC. I notified the new Plant Manager, Tom Green, of her decision and he requested to speak with her. Following their discussion she informed me that she would not be resigning after all.

27. James Barr replaced me as Plant Personnel Director in September 2001. After September 2001 I had no supervisory responsibilities nor input into Ms. James' Personal Business Plan.

28. Ms. James' gender and race were in no way factors in the decisions that were made regarding her employment.

29. I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing statements are true and correct.



Executed on February 1, 2007, in Troy, Michigan.

/s/ Loretta Nash Woolridge

Loretta Nash Woolridge

## EXHIBIT 1

tabbles®

**PLAINTIFF'S  
EXHIBIT**

A

Date	Position	GD	PY	PY	Div/Stf	Pers. Area	Sub Area	Org Unit	EE SG Reason for Action
02/01/2001	SUPV-SALARIED PERSONNEL ADMIN	7	7B	DPH-INTERIOR	COLUMBUS	OH	PERSON	D5030/430	SE RETIRE (ERY)-AGE < 60
01/01/1999	SUPV-SALARIED PERSONNEL ADMIN	7	7B	DPH-INTERIOR	COLUMBUS	OH	PERSON	D5030/430	RA HIRE-SUCCESSOR ENTERPRISE
02/31/1998	SUPV-SALARIED PERSONNEL ADMIN	7	7B	GM DPH TEL	COLUMBUS	OH	PERSON	06840/430	SE SEP-SUCCESSOR ENTERPRISE
04/01/1992	SUPV-SALARIED PERSONNEL ADMIN	7	7B	GM DPH TEL	COLUMBUS	OH	PERSON	06840/430	RA RECLAS-POS CODE CHG
05/01/1989	SUPV-HOURLY PERSONNEL ADMINIST	7	7C	GM DPH TEL	COLUMBUS	OH	PERSON	06840/430	RA CHG-REORG/ORG NAME
01/01/1986	SUPV-HOURLY PERSONNEL ADMINIST	7	7C	GM DPH TEL	COLUMBUS	OH	PERSON	06840/430	RA BUILD CHANGES
09/01/1982	SUPV-HOURLY PERSONNEL ADMINIST	7	7C	GM DPH TEL	CLEVELAND	OH	PERSON	06840/430	RA * TRANS FROM PLT W/IN DIV
05/01/1981	SUPV-LABOR RELATIONS	7	7C	GM DPH TEL	CLEVELAND	OH	PERSON	06840/430	RA UNKNOWN TEXT IN PRISM
10/16/1978	SUPV-LABOR RELATIONS	7	7B	GM DPH TEL	CLEVELAND	OH	PERSON	06840/430	RA UNKNOWN TEXT IN PRISM
12/01/1978	LABOR RELATIONS REPRESENTATIVE	6	6B	GM DPH TEL	CLEVELAND	OH	PERSON	06840/430	RA UNKNOWN TEXT IN PRISM
04/01/1977	INT L. - PERSONNEL	6	6B	GM DPH TEL	CLEVELAND	OH	PERSON	06840/430	RA UNKNOWN TEXT IN PRISM
01/01/1975	LABOR RELATIONS REPRESENTATIVE	6	6A	GM DPH TEL	CLEVELAND	OH	PERSON	06840/430	RA UNKNOWN TEXT IN PRISM
09/30/1974	LABOR RELATIONS REPRESENTATIVE	6	6B	GM DPH TEL	CLEVELAND	OH	PERSON	06840/430	RA UNKNOWN TEXT IN PRISM
09/16/1974	LABOR RELATIONS REPRESENTATIVE	6	6B	GM DPH TEL	CLEVELAND	OH	PERSON	06840/430	RA UNKNOWN TEXT IN PRISM
00/01/1960	LABOR RELATIONS REPRESENTATIVE	6	6B	GM DPH TEL	UNKNOWN TEXT	IN PR	PERSON	06840/	RA UNKNOWN TEXT IN PRISM
01/01/1901			XA	GM DPH TEL	UNKNOWN TEXT	IN PR	PERSON	06840/	RA HIRE-REGULAR
02/01/1901			XA	GM DPH TEL	UNKNOWN TEXT	IN PR	PERSON	06840/	UNKNOWN TEXT IN PRISM

## **EXHIBIT F**

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- and -

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Delphi Legal Information Website:  
<http://www.delphidocket.com>

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	x	
	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	x	

NOTICE OF ADJOURNMENT OF CLAIMS OBJECTION HEARING WITH RESPECT TO  
DEBTORS' OBJECTION TO PROOF OF CLAIM NO. 9956 (JOSEPH RENO)

PLEASE TAKE NOTICE that on October 31, 2006, Delphi Corporation and  
certain of its subsidiaries and affiliates, debtors and debtors-in-possession in the above-captioned

cases (collectively, the "Debtors"), objected to proof of claim number 9956 (the "Proof of Claim") filed by Joseph Reno (the "Claimant") pursuant to the Debtors' (i) Third Omnibus Objection (Substantive) Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To Certain (a) Claims With Insufficient Documentation, (b) Claims Unsubstantiated By Debtors' Books And Records, And (c) Claims Subject To Modification And (ii) Motion To Estimate Contingent And Unliquidated Claims Pursuant To 11 U.S.C. § 502(c) (Docket No. 5452) (the "Objection").

PLEASE TAKE FURTHER NOTICE that on December 26, 2006, the Debtors filed the Notice Of Claims Objection Hearing With Respect To Debtors' Objection To Proof Of Claim No. 9956 (Docket No. 6287) scheduling a claims objection hearing (the "Claims Objection Hearing") for purposes of holding an evidentiary hearing on the merits of the Proof of Claim for March 1, 2007, at 10:00 a.m. (prevailing Eastern time).

PLEASE TAKE FURTHER NOTICE that pursuant to Paragraph 9(a)(ii) of the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December 7, 2006 (Docket No. 6089) (the "Order"), the Claims Objection Hearing is hereby further adjourned to March 21, 2007, at 10:00 a.m. (prevailing Eastern time) in the United States Bankruptcy Court for the Southern District of New York (the "Court").

PLEASE TAKE FURTHER NOTICE that the Claims Objection Hearing will proceed in accordance with the procedures provided in the Order, unless such procedures are modified in accordance with Paragraph 9(k) thereof. All provisions and deadlines set forth in the Order shall remain in full force and effect. Those deadlines calculated based on the hearing date shall be calculated based on the March 21, 2007 hearing date rather than the original March 1,

2007 date. Please review the Order carefully – failure to comply with the procedures provided in the Order (or as modified pursuant to Paragraph 9(k)) could result in the disallowance and expungement of the Proof of Claim. A copy of the Order is attached hereto for your convenience.

PLEASE TAKE FURTHER NOTICE that the Debtors may further adjourn the Claims Objection Hearing at any time at least five business days prior to the scheduled hearing upon notice to the Court and the Claimant.

Dated: New York, New York  
February 1, 2007

SKADDEN, ARPS, SLATE, MEAGHER &  
FLOM LLP

By: /s/ John Wm. Butler, Jr  
John Wm. Butler, Jr. (JB 4711)  
John K. Lyons (JL 4951)  
Ron E. Meisler (RM 3026)  
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By: /s/ Kayalyn A. Marafioti  
Kayalyn A. Marafioti (KM 9632)  
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Four Times Square  
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(212) 735-3000

Attorneys for Delphi Corporation, et al.,  
Debtors and Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
: In re : Chapter 11  
: :  
: DELPHI CORPORATION, et al., : Case No. 05-44481 (RDD)  
: :  
: Debtors. : (Jointly Administered)  
: :  
-----X

ORDER PURSUANT TO 11 U.S.C. § 502(b) AND FED. R. BANKR. P. 2002(m),  
3007, 7016, 7026, 9006, 9007, AND 9014 ESTABLISHING (I) DATES FOR  
HEARINGS REGARDING OBJECTIONS TO CLAIMS AND (II) CERTAIN  
NOTICES AND PROCEDURES GOVERNING OBJECTIONS TO CLAIMS

("CLAIM OBJECTION PROCEDURES ORDER")

Upon the Motion For Order Pursuant To 11 U.S.C. §§ 502(b) And 502(c) And  
Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For  
Hearings Regarding Disallowance Or Estimation Of Claims And (ii) Certain Notices And  
Procedures Governing Hearings Regarding Disallowance Or Estimation Of Claims, dated  
October 31, 2006 (the "Motion"), of Delphi Corporation and certain of its subsidiaries and  
affiliates, debtors and debtors-in-possession in the above-captioned cases (collectively, the  
"Debtors"); and upon the objections to the Motion and the record of the hearing held on the  
Motion; and after due deliberation thereon; and good and sufficient cause appearing therefor,



IT IS HEREBY FOUND AND DETERMINED THAT:<sup>1</sup>

A. Proper, timely, adequate, and sufficient notice of the Motion has been provided, such notice was good, sufficient and appropriate under the particular circumstances, and no other or further notice of the Motion is or shall be required.

B. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. The Motion is a core proceeding under 28 U.S.C. § 157 (b)(2). Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

C. The relief requested in the Motion and granted herein is in the best interests of the Debtors, their estates, their creditors, and other parties-in-interest.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. This Court shall conduct special periodic hearings on contested claims matters in these cases (the "Claims Hearing Dates"), to be held in Courtroom 610, United States Bankruptcy Court, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004 unless the Debtors and the parties whose claims are affected are otherwise notified by the Court. The following dates and times have been scheduled as Claims Hearing Dates in these chapter 11 cases:

December 13, 2006 at 10:00 a.m. (prevailing Eastern time)

January 12, 2007 at 10:00 a.m. (prevailing Eastern time)

February 14, 2007 at 10:00 a.m. (prevailing Eastern time)

March 1, 2007 at 10:00 a.m. (prevailing Eastern time)

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<sup>1</sup> Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Motion.

March 21, 2007 at 10:00 a.m. (prevailing Eastern time)

April 5, 2007 at 10:00 a.m. (prevailing Eastern time)

April 27, 2007 at 10:00 a.m. (prevailing Eastern time)

May 10, 2007 at 10:00 a.m. (prevailing Eastern time)

May 24, 2007 at 10:00 a.m. (prevailing Eastern time)

June 1, 2007 at 10:00 a.m. (prevailing Eastern time)

June 14, 2007 at 10:00 a.m. (prevailing Eastern time)

June 22, 2007 at 10:00 a.m. (prevailing Eastern time)

July 12, 2007 at 10:00 a.m. (prevailing Eastern time)

July 20, 2007 at 10:00 a.m. (prevailing Eastern time)

August 2, 2007 at 10:00 a.m. (prevailing Eastern time)

August 17, 2007 at 10:00 a.m. (prevailing Eastern time)

August 30, 2007 at 10:00 a.m. (prevailing Eastern time)

September 28, 2007 at 10:00 a.m. (prevailing Eastern time)

October 11, 2007 at 10:00 a.m. (prevailing Eastern time)

October 26, 2007 at 10:00 a.m. (prevailing Eastern time)

November 8, 2007 at 10:00 a.m. (prevailing Eastern time)

November 30, 2007 at 10:00 a.m. (prevailing Eastern time)

December 6, 2007 at 10:00 a.m. (prevailing Eastern time)

2. Any response to a claims objection or an omnibus claims objection (a "Response") must (a) be in writing, (b) conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, and the Amended Eighth Supplemental Order Under 11 U.S.C. §§ 102(1) And 105 And Fed. R. Bankr. P. 2002(m), 9006,

9007, And 9014 Establishing Omnibus Hearing Dates And Certain Notice, Case Management, And Administrative Procedures, entered on October 26, 2006 (the "Amended Eighth Supplemental Case Management Order") (Docket No. 5418), (c) be filed with the Bankruptcy Court in accordance with General Order M-242 (as amended) – registered users of the Bankruptcy Court's case filing system must file electronically, and all other parties-in-interest must file on a 3.5 inch disk (preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format), (d) be submitted in hard copy form directly to the chambers of the Honorable Robert D. Drain, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, Room 610, New York, New York 10004, and (e) be served upon (i) Delphi Corporation, 5725 Delphi Drive, Troy, Michigan 48098 (Att'n: General Counsel) and (ii) counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, 333 West Wacker Drive, Suite 2100, Chicago, Illinois 60606 (Att'n: John Wm. Butler, Jr., John K. Lyons, and Randall G. Reese), in each case so as to be received no later than 4:00 p.m. (prevailing Eastern time) on the seventh calendar day prior to the Omnibus Hearing for which the relevant claims objection or omnibus claims objection is scheduled.

3. Every Response must contain at a minimum the following:

- (a) the title of the claims objection to which the Response is directed;
- (b) the name of the claimant (each holder of a proof of claim, a "Claimant") and a brief description of the basis for the amount of the claim;
- (c) a concise statement setting forth the reasons why the claim should not be disallowed, expunged, reduced, or reclassified, including, but not limited to, the specific factual and legal bases upon which the Claimant will rely in opposing the claims objection;
- (d) unless already set forth in the proof of claim previously filed with the Court, documentation sufficient to establish a prima facie right to payment; provided, however, that the Claimant need not disclose confidential, proprietary, or otherwise protected information in the Response; provided further, however, that the Claimant shall disclose to the Debtors all information and provide copies of all documents that the Claimant believes to be

confidential, proprietary, or otherwise protected and upon which the Claimant intends to rely in support of its Claim, subject to appropriate confidentiality constraints;

(e) to the extent that the claim is contingent or fully or partially unliquidated, the amount that the Claimant believes would be the allowable amount of such claim upon liquidation of the claim or occurrence of the contingency, as appropriate; and

(f) the address(es) to which the Debtors must return any reply to the Response, if different from the address(es) presented in the claim.

4. Only those Responses made in writing and timely filed and received will be considered by the Court. If a Claimant whose proof of claim is subject to a claims objection and who is served with the relevant claims objection fails to file and serve a timely Response in compliance with the foregoing procedures, the Debtors may present to the Court an appropriate order seeking relief with respect to such claim consistent with the relief sought in the relevant claims objection without further notice to the claimant, provided that, upon entry of such an order, the claimant shall receive notice of the entry of such order as provided below; provided, however, that if the claimant files a timely Response, which does not include the required minimum information provided in paragraph 3 above, the Debtors shall seek disallowance and expungement of the relevant claim or claims only in accordance with the Claims Hearing Procedures provided in paragraph 9 below.

5. To the extent that a Response is filed with respect to any claim listed in a claims objection (each, a "Contested Claim"), each such Claim and the objection to such Claim asserted in the claims objection shall be deemed to constitute a separate contested matter as contemplated by Bankruptcy Rule 9014.

6. The Debtors are hereby authorized and directed to serve each Claimant whose proof of claim is listed in any omnibus claims objection with (a) a personalized Notice Of Objection To Claim which specifically identifies the Claimant's proof of claim that is subject to objection and the basis for such objection and (b) a complete copy of the relevant omnibus

claims objection without exhibits. Service of omnibus claims objections in such manner shall constitute good and sufficient notice and no other or further notice to claimants of an omnibus claims objection shall be required.

7. Kurtzman Carson Consultants, LLC (the "Claims Agent") is hereby authorized and directed to serve all orders entered with respect to any omnibus claims objections, including exhibits, upon only the master service list and the 2002 list. The Claims Agent is hereby further authorized and directed to serve all claimants whose proofs of claim are the subject of an order entered with respect to an omnibus claims objection with a copy of such order, without exhibits, and a personalized Notice Of Entry Of Order in the form attached hereto as Exhibit A specifically identifying such Claimant's proof of claim that is subject to the order, the Court's treatment of such proof of claim, and the basis for such treatment, and advising the Claimant of its ability to view the order with exhibits free of charge on the Debtors' Legal Information Website. Without limiting the foregoing, the Court hereby directs the Claims Agent to serve the First Omnibus Claims Order in the manner provided hereby.

8. Any order entered by the Court with respect to an objection asserted in an omnibus claims objection shall be deemed a separate order with respect to each claim covered by such order.

9. The following procedures shall apply with respect to the determination of Contested Claims (the "Claims Hearing Procedures"):

(a) Adjournment Of Claims Hearing.

(i) All Contested Claims for which a timely Response is filed shall be automatically adjourned to a future hearing, the date of which shall be determined by the Debtors, in their sole discretion, by serving the Claimant with notice as provided herein. The Debtors may send such notice to each Claimant when they deem it appropriate to do so, subject to the requirements of the Bankruptcy Code, the Bankruptcy Rules, and any further order of this Court.

The Debtors shall schedule the further hearing upon each Contested Claim to a Claims Hearing of the Debtors' election:

(A) for a non-evidentiary hearing to address the legal sufficiency of the particular proof of claim and whether the proof of claim states a claim against the asserted Debtor under Bankruptcy Rule 7012 (a "Sufficiency Hearing"), by serving upon the relevant Claimant by facsimile or overnight delivery, and filing with this Court, a notice substantially in the form attached hereto as Exhibit B (a "Notice Of Sufficiency Hearing") and a copy of this Order at least 20 business days prior to the date of such Sufficiency Hearing, or

(B) for an evidentiary hearing on the merits of such Contested Claim (a "Claims Objection Hearing"), by serving upon the relevant Claimant by facsimile or overnight delivery, and filing with this Court, a notice substantially in the form attached hereto as Exhibit C (a "Notice Of Claims Objection Hearing" and, collectively with the Notice of Sufficiency Hearing, the "Notices of Hearing") and a copy of this Order at least 65 calendar days prior to the date of such Claims Objection Hearing.

(ii) The Debtors, in their sole discretion, are authorized to further adjourn a hearing scheduled in accordance herewith at any time by providing notice to the Court and the Claimant at least five business days prior to the date of the scheduled hearing; provided, however, that the hearing on any Contested Claim shall not be adjourned for more than a total of 180 calendar days from date of service of the initial Notice of Hearing set forth in paragraph 9(a)(i)(A) and (B) above without consent of the Claimant with respect thereto, unless otherwise ordered by the Court.

(b) Sufficiency Hearing Procedures.

(i) To the extent that a Contested Claim is adjourned to a Sufficiency Hearing, if the Debtors wish to file a supplemental pleading, they shall file and serve their pleading no later than ten calendar days before the scheduled Sufficiency Hearing. The supplemental pleading shall not exceed fifteen single-sided, double-spaced pages.

(ii) To the extent that a Contested Claim is adjourned to a Sufficiency Hearing, if the Claimant wishes to file a supplemental response, the Claimant shall file and serve its response no later than two business days before the scheduled Sufficiency Hearing. The supplemental response shall not exceed fifteen single-sided, double-spaced pages.

(iii) To the extent that this Court determines upon conclusion of the Sufficiency Hearing that a Contested Claim cannot be disallowed in whole or in part without further proceedings, the Debtors shall provide to the Claimant a Notice Of Claims Objection Hearing pursuant to the procedures set forth above.

(c) Mandatory Meet And Confer.

(i) If (A) (1) the amount in dispute for a Contested Claim exceeds \$1,000,000 or (2) a Contested Claim asserts unliquidated claims (unless the Claimant irrevocably agrees in writing that the allowed amount of such Contested Claim shall be limited to a maximum of \$1,000,000), (B) the Claimant (if an individual) or the Claimant's principal place of

business (if a governmental unit or a person, as defined in section 101(41) of the Bankruptcy Code, other than an individual) is located within 90 miles of Troy, Michigan, and (C) such Contested Claim is scheduled by the Debtors for a Claims Objection Hearing, the Debtors and the relevant Claimant shall hold an in-person meet and confer (an "In-Person Meet and Confer") at a neutral location in Troy, Michigan, or such other location as is reasonably acceptable to the Debtors, within ten business days of service of the Notice Of Claims Objection Hearing.

(ii) If (A) (1) the amount in dispute for a Contested Claim is less than or equal to \$1,000,000, (2) a Contested Claim asserts unliquidated claims and the Claimant with respect thereto irrevocably agrees in writing that the allowed amount of such Contested Claim shall be limited to a maximum of \$1,000,000, or (3) the Claimant (if an individual) or the Claimant's principal place of business (if a governmental unit or a person, as defined in section 101(41) of the Bankruptcy Code, other than an individual) is located more than 90 miles from Troy, Michigan, and (B) such Contested Claim is scheduled by the Debtors for a Claims Objection Hearing, the Debtors and the relevant Claimant shall hold a telephonic meet and confer (a "Telephonic Meet and Confer" and, collectively with In-Person Meet and Confers, the "Meet and Confers") within ten business days of service of the Notice Of Claims Objection Hearing.

(iii) The following representatives of each of the Debtors and the Claimant shall attend the Meet and Confer: (A) counsel for each of the parties, except for a Claimant proceeding pro se, who shall be prepared to discuss the matter described in paragraph 9 (k) below, and (B) a person possessing ultimate authority to reconcile, settle, or otherwise resolve the Contested Claim on behalf of the Debtors and the Claimant, respectively; provided, however, that counsel for each of the parties may participate in the Meet and Confer telephonically.

(iv) The Court will consider appropriate sanctions, including allowance or disallowance of the Contested Claim, if either party does not follow the foregoing procedures or conduct the Meet and Confer in good faith.

(d) Debtors' Statement Of Disputed Issues. Within five business days after service of the Notice Of Claims Objection Hearing, the Debtors shall file and serve a written statement of disputed issues (the "Statement Of Disputed Issues") upon the Claimant. The Statement Of Disputed Issues shall contain a concise statement summarily setting forth the primary reasons why the claim should be disallowed, expunged, reduced, or reclassified as set forth in the claims objection, including, but not limited to, the material factual and legal bases upon which the Debtors will rely in prosecuting the claims objection, without prejudice to the Debtors' right to later identify and assert additional legal and factual bases for disallowance, expungement, reduction, or reclassification of the Contested Claim. The Statement of Disputed Issues shall also include documentation supporting the disallowance, expungement, reduction, or reclassification of the Contested Claim, without prejudice to the Debtors' right to later identify additional documentation supporting the disallowance, expungement, reduction, or reclassification of the Contested Claim; provided, however, that the Debtors need not disclose confidential, proprietary, or otherwise protected information in the Statement of Disputed Issues; provided further, however, that the Debtors shall disclose to the Claimant all information and

provide copies of all documents that the Debtors believe to be confidential, proprietary, or otherwise protected, subject to appropriate confidentiality constraints.

(e) Claimant's Supplemental Response. The following procedures apply to the Claimant's written supplemental response (the "Supplemental Response"), subject to modification pursuant to paragraph 9(k), filed in connection with a Claims Objection Hearing for a Contested Claim:

(i) The Claimant may file and serve its Supplemental Response (with a copy to chambers) no later than 30 business days prior to commencement of the Claims Objection Hearing. The Supplemental Response shall not exceed 20 single-sided, double-spaced pages (exclusive of exhibits or affidavits).

(ii) If the Claimant relies on exhibits, the Claimant shall include such exhibits in its Supplemental Response (other than those previously included with either its Proof of Claim or its Response); provided, however, that the Claimant need not disclose confidential, proprietary, or otherwise protected information in the Supplemental Response; provided further, however, that the Claimant shall disclose to the Debtors all information and provide copies of all documents that the Claimant believes to be confidential, proprietary, or otherwise protected and upon which the Claimant intends to rely in support of its Contested Claim, subject to appropriate confidentiality constraints. The Claimant shall include a certificate of counsel or a declaration or affidavit authenticating any documents attached to the Supplemental Response, as appropriate.

(iii) The Supplemental Response may include affidavits or declarations from no more than two witnesses setting forth the basis of the Contested Claim and evidence supporting the Contested Claim; provided, however, that if the Claimant intends to call a person not under such Claimant's control at the hearing, the Claimant shall, in lieu of an affidavit or declaration of such person, identify such person, the Claimant's basis for calling such person as a witness, and the reason that it did not file an affidavit or declaration of such person. If an affiant or declarant does not attend the Claims Objection Hearing, such affiant or declarant's affidavit or declaration shall be stricken. The Claimant shall not be permitted to elicit any direct testimony at the Claims Objection Hearing; instead, the affidavit or declaration submitted with the Supplemental Response, or such witnesses' deposition transcript if the witnesses were not under the Claimant's control, shall serve as the witnesses' direct testimony and the Debtors may cross examine the witnesses at the Claims Objection Hearing, or counter-designate deposition testimony. No other or additional witnesses may introduce evidence at the hearing on behalf of the Claimant.

(iv) No later than three business days prior to commencement of the Claims Objection Hearing, if the Claimant timely filed a Supplemental Response, the Claimant may file and serve (with a copy to chambers) an amended Supplemental Response and a supplemental affidavit or declaration on behalf of each of its witnesses solely for the purpose of supplementing the Supplemental Response and the witnesses' prior affidavits or declarations with respect to matters adduced through the discovery provided by these Claims Hearing Procedures; provided that the amended Supplemental Response shall be subject to the page limitations set forth above.



(f) Debtors' Supplemental Reply. The following procedures shall apply to the Debtors' written supplemental reply, if any (the "Supplemental Reply"), subject to modification pursuant to paragraph 9(k) below, filed in connection with a Claims Objection Hearing with respect to a Contested Claim:

(i) The Debtors may file and serve (with a copy to chambers) a Supplemental Reply no later than 20 business days prior to commencement of the Claims Objection Hearing. The Supplemental Reply shall not exceed 20 single-sided, double-spaced pages (exclusive of exhibits or affidavits).

(ii) If the Debtors rely on exhibits, the Debtors shall include such exhibits in their Supplemental Reply (other than those previously included with either their objection or reply); provided, however, that the Debtors need not disclose confidential, proprietary, or otherwise protected information in the Supplemental Reply; provided further, however, that the Debtors shall disclose to the Claimant all information and provide copies of all documents that the Debtors believe to be confidential, proprietary, or otherwise protected and upon which the Debtors intend to rely in support of their objection, subject to appropriate confidentiality constraints. The Debtors shall include a certificate of counsel or a declaration or affidavit authenticating any documents attached to the Supplemental Reply.

(iii) The Supplemental Reply may include affidavits or declarations from no more than two witnesses setting forth the Debtors' basis for objecting to the Contested Claim and evidence in support of such objection to the Contested Claim; provided, however, that if the Debtors intend to call a person not under the Debtors' control at the hearing, the Debtors shall, in lieu of an affidavit or declaration of such person, identify such person, the Debtors' basis for calling such person as a witness, and the reason that it did not file an affidavit or declaration of such person. If an affiant or declarant does not attend the Claims Objection Hearing, as appropriate, such affiant or declarant's affidavit or declaration shall be stricken. The Debtors shall not be permitted to elicit any direct testimony at the Claims Objection Hearing, instead, the affidavit or declaration submitted with the Supplemental Reply, or such witnesses' deposition transcript if the witnesses were not under the Debtors' control, shall serve as the witnesses' direct testimony and the Claimant may cross examine the witnesses at the Claims Objection Hearing or counter-designate deposition testimony. No other or additional witnesses may introduce evidence at the hearing on behalf of the Debtors.

(iv) No later than three business days prior to commencement of the Claims Objection Hearing, if the Debtors timely filed a Supplemental Reply, the Debtors may file and serve (with a copy to chambers) an amended Supplemental Reply and a supplemental affidavit or declaration on behalf of each of their witnesses solely for the purpose of supplementing the Supplemental Reply and the witnesses' prior affidavits or declarations with respect to matters adduced through the discovery provided by these Claims Hearing Procedures; provided that the amended Supplemental Reply shall be subject to the page limitations set forth above.

(g) Mandatory Non-Binding Summary Mediation. Except as set forth below, at least 15 business days prior to commencement of the Claims Objection Hearing, the Debtors and the Claimant shall submit to mandatory non-binding summary mediation (each, a

"Mediation") in an effort to consensually resolve the Contested Claim. The Mediation shall be governed by General Order M-143 except as follows. The following procedures shall apply to each Mediation, subject to modification pursuant to paragraph 9(k) below:

(i) Each Mediation shall be assigned to one of the mediators listed by the Debtors on Exhibit D hereto (each, a "Mediator"). The Debtors and the Claimant shall agree upon the Mediator at the Meet and Confer; provided that, if the Debtors and the Claimant are unable to agree upon a Mediator, the parties shall promptly report such inability to agree to the Court.

(ii) The Mediator shall not have the authority to require either the Debtors or the Claimant to provide any additional briefing with respect to the Mediation.

(iii) If (A) (1) the amount in dispute for a Contested Claim exceeds \$1,000,000 or (2) a Contested Claim asserts unliquidated claims (unless the Claimant with respect thereto irrevocably agrees in writing that the allowed amount of such Contested Claim shall be limited to a maximum of \$1,000,000) and (B) the Claimant (if an individual) or the Claimant's principal place of business (if a governmental unit or a person, as defined in section 101(41) of the Bankruptcy Code, other than an individual) is located within 90 miles of Troy, Michigan, the Mediation shall be held at a neutral location in Troy, Michigan.

(iv) If (A) (1) the amount in dispute for a Contested Claim exceeds \$1,000,000 or (2) a Contested Claim asserts unliquidated claims (unless the Claimant with respect thereto irrevocably agrees in writing that the allowed amount of such Contested Claim shall be limited to a maximum of \$1,000,000), and (B) the Claimant (if an individual) or the Claimant's principal place of business (if a governmental unit or a person, as defined in section 101(41) of the Bankruptcy Code, other than an individual) is located more than 90 miles from Troy, Michigan, the Mediation shall be held at a neutral location reasonably acceptable to the Debtors and the Claimant; provided that, if the Debtors and the Claimant are unable to agree upon a neutral location at the Meet and Confer, the parties shall promptly report such inability to agree to the Court.

(v) If (A) the amount in dispute for a Contested Claim is less than or equal to \$1,000,000 or (B) the Contested Claim asserts unliquidated claims and the Claimant with respect thereto irrevocably agrees in writing that the allowed amount of such Contested Claim shall be limited to a maximum of \$1,000,000, participation in Mediation shall be voluntary and any Mediation may be held telephonically at either the Debtors' or the Claimant's request.

(vi) A person possessing ultimate authority to reconcile, settle, or otherwise resolve the Contested Claim on behalf of each of the Debtors and the Claimant shall attend an in-person Mediation or participate in a telephonic Mediation, if any; provided, however, that the Debtors' counsel will not be precluded from attending and participating in a Mediation in the event that the claimant elects not to have its counsel attend or participate in a Mediation.

(vii) Absent consent of each of the Claimant and the Debtors, the length of the Mediation shall be limited to one day.

(viii) The Court will consider appropriate sanctions, including allowance or disallowance of the Contested Claim, if either party does not follow the foregoing procedures or conduct the Mediation in good faith.

(ix) The Debtors and the Claimant shall each bear its own costs in participating in the Mediation. The Debtors are hereby authorized to pay the Mediator's fees.

(h) Claims Objection Hearing Discovery. If a Claims Objection Hearing is scheduled for a particular Contested Claim, the Debtors and the Claimant shall be bound by the following discovery procedures, which shall otherwise be governed by the Bankruptcy Rules, subject to modification pursuant to paragraph 9(k) below:

(i) No later than five business days after service of the Supplemental Response, the Debtors may request:

(A) That the Claimant produce documents relevant to the Contested Claim. Documents shall be produced at least ten business days prior to commencement of the Claims Objection Hearing.

(B) That the Claimant respond to no more than 15 interrogatories, including discrete subparts. Responses shall be produced at least ten business days prior to commencement of the Claims Objection Hearing.

(C) That the Claimant respond to no more than ten requests for admission. Responses shall be produced at least ten business days prior to commencement of the Claims Objection Hearing.

(ii) No later than five business days after service of the Supplemental Reply, the Claimant may request:

(A) That the Debtors produce documents relevant to the Contested Claim. Documents shall be produced at least ten business days prior to commencement of the Claims Objection Hearing.

(B) That the Debtors respond to no more than 15 interrogatories, including discrete subparts. Responses shall be produced at least ten business days prior to commencement of the Claims Objection Hearing.

(C) That the Debtors respond to no more than ten requests for admission. Responses shall be produced at least ten business days prior to commencement of the Claims Objection Hearing.

(iii) No earlier than fifteen business days prior to the commencement of the Claims Objection Hearing, but at least five business days prior to commencement of the Claims Objection Hearing, the Debtors may, at their election, take the deposition upon oral examination of each witness whose affidavit or declaration was proffered in support of the Claimant's Supplemental Response. Each deposition shall not exceed three hours.

(iv) No earlier than fifteen business days prior to the commencement of the Claims Objection Hearing, but at least five business days prior to commencement of the Claims Objection Hearing, the Claimant may, at its election, take the deposition upon oral examination of each witness whose affidavit or declaration was proffered in support of the Debtors' Supplemental Reply. Each deposition shall not exceed three hours.

(v) Except as provided in paragraph 9(g)(vi) above, nothing in this Order alters any obligation of opposing counsel with regard to communications with non-counsel opponents or any applicable law regarding corporations or other business entities to be represented by counsel.

(i) Conduct Of The Claims Objection Hearing. The Debtors and the Claimant shall each be permitted, subject to modification pursuant to paragraph 9(k) below, no more than one hour to present their respective cases, inclusive of time cross-examining their opponent's witnesses and making argument to the Court. The parties shall coordinate with each other in advance of the hearing with respect to, joint exhibit binders, stipulated admission of evidence, anticipated disputes regarding the admission of particular evidence and any designated deposition testimony.

(j) Estimation Based Upon Claimant's Asserted Estimated Amount. To the extent that a Contested Claim would be subject to estimation pursuant to section 502(c) of the Bankruptcy Code and the Debtors have sought authority to estimate such Contested Claim pursuant to an omnibus claims objection and/or a motion to estimate claims, if the Claimant has filed a Response in accordance with the procedures outlined above which (i) acknowledges that the Contested Claim is contingent or fully or partially unliquidated and (ii) provides the amount that the Claimant believes would be the allowable amount of such Contested Claim upon liquidation of the Contested Claim or occurrence of the contingency, as appropriate (the "Claimant's Asserted Estimated Amount"), the Debtors are hereby authorized, in their sole discretion, to elect to provisionally accept the Claimant's Asserted Estimated Amount as the estimated amount of such Contested Claim pursuant to section 502(c) of the Bankruptcy Code for all purposes other than allowance, but including voting and establishing reserves for purposes of distribution, subject to further objection and reduction as appropriate and section 502(j) of the Bankruptcy Code. The Debtors' election shall be made by serving the Claimant with a Notice Of Election To Accept Claimant's Asserted Estimated Amount in the form attached hereto as Exhibit E. The Contested Claim will otherwise remain subject in all respects to the procedures outlined herein.

(k) Ability To Modify Procedures By Agreement Or Order Of Court. At the Meet and Confer, the parties shall discuss discovery parameters, briefing, evidence to be presented, the timing outlined herein, and any modifications thereto that are necessary due to the facts and circumstances of the relevant Contested Claim. Should the parties be unable to agree on reasonable modifications to these Claim Hearing Procedures, if any, either party may request that the Court promptly schedule a teleconference to consider such proposed modifications. No discovery, testimony, or motion practice other than that described herein, as modified, shall be permitted, unless otherwise agreed by the parties or ordered by the Court.

10. The procedures approved herein shall not apply to claims filed by Banc of America Securities LLC (as to proof of claim number 10758), Barclays Capital Inc. (as to proof of claim number 11658), Bear, Stearns & Co. Inc. (as to proof of claim number 10732), Cadence Innovation LLC, Citigroup Global Markets, Inc. (as to proof of claim number 10731), Credit Suisse Securities (USA) LLC (as to proof of claim number 10763), Merrill Lynch, Peirce, Fenner & Smith Inc. (as to proof of claim number 10761), Morgan Stanley & Co. Inc. (as to proof of claim number 10762), the Pension Benefit Guaranty Corporation, Robert Bosch GmbH, the State of California Environmental Protection Agency, the State of Michigan Environmental Protection Agency, the State of Ohio Environmental Protection Agency, Technology Properties, Ltd., UBS Securities LLC (as to proof of claim number 10759), the United States Environmental Protection Agency, and Wachovia Capital Markets, LLC (as to proof of claim number 10760) (collectively, the "Excluded Parties") for any purpose, including, but not limited to, any objections to such claims or other litigation in respect of such claims; provided, however, that nothing contained herein shall preclude any of the Excluded Parties or the Debtors, after notice and an opportunity to be heard, from seeking to establish appropriate alternative claims resolution procedures.

11. With respect to the claim of Gary Whitney ("Mr. Whitney") (claim number 10157) and NuTech Plastics Engineering, Inc. ("NuTech") (claim number 1279 against Delphi Automotive Systems LLC), nothing in this Order shall limit Mr. Whitney's or NuTech's ability to request relief from the automatic stay provisions under section 362 of the Bankruptcy Code subject to the Debtors' right to object to such request.

12. The Debtors shall not serve a Notice of Hearing on Orix Warren, LLC ("Orix Warren") with respect to proof of claim number 10202 until the earliest of the following

to occur: (a) the Debtors assume the lease between Delphi Automotive Systems LLC and Orix Warren with respect to property located at 4551 Research Parkway in Warren, Ohio (the "Orix Lease"), (b) the Debtors reject the Orix Lease, or (c) the Orix Lease terminates or is terminated pursuant to its terms.

13. Nothing in this Order shall preclude any right to seek estimation of a claim under section 502(c) of the Bankruptcy Code, any right to seek relief from the automatic stay under section 362 of the Bankruptcy Code to liquidate a claim in a different forum, any right to seek protection of information under section 107(b) of the Bankruptcy Code or any right not specifically addressed in this Order.

14. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this order.

15. The requirement under Rule 9013-1(b) of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York for the service and filing of a separate memorandum of law is deemed satisfied by the Motion.

Dated: New York, New York  
December 6, 2006

/s/Robert D. Drain

UNITED STATES BANKRUPTCY JUDGE

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Delphi Legal Information Website:  
<http://www.delphidocket.com>

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	x	
	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	x	

NOTICE OF ENTRY OF ORDER WITH RESPECT  
TO [ ] OMNIBUS CLAIMS OBJECTION

PLEASE TAKE NOTICE that on \_\_\_\_\_, 200\_, the United States Bankruptcy  
Court for the Southern District of New York entered a [title of order] (the "Order").

PLEASE TAKE FURTHER NOTICE THAT a copy of the Order, excluding exhibits, is attached hereto.

PLEASE TAKE FURTHER NOTICE that the proof of claim listed below, which you filed against Delphi Corporation and/or other of its subsidiaries and affiliates that are debtors and debtors-in-possession in the above-captioned cases (collectively, the "Debtors"), was the subject of the Order and was listed on Exhibit \_\_ to the Order and was accordingly disallowed and expunged, unless otherwise provided below in the column entitled "Treatment Of Claim."

<b>Date Filed</b>	<b>Claim Number</b>	<b>Asserted Claim Amount<sup>1</sup></b>	<b>Basis For Objection</b>	<b>Treatment Of Claim</b>	<b>Surviving Claim Number (if any)</b>

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<sup>1</sup> Asserted Claim Amounts listed as \$0.00 generally reflect that the claim amount asserted is unliquidated.



PLEASE TAKE FURTHER NOTICE that you may view the complete exhibits to the Order by requesting a copy from the claims and noticing agent in the above-captioned chapter 11 cases, Kurtzman Carson Consultants LLC, at 1-888-259-2691 or by accessing the Debtors' Legal Information Website at [www.delphidocket.com](http://www.delphidocket.com).

Dated: New York, New York  
\_\_\_\_\_, 200\_

BY ORDER OF THE COURT

John Wm. Butler, Jr. (JB 4711)  
John K. Lyons (JL 4951)  
Ron E. Meisler (RM 3026)  
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<http://www.delphidocket.com>

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	x	
	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	x	

NOTICE OF HEARING WITH RESPECT TO  
DEBTORS' OBJECTION TO PROOF OF CLAIM NO. [\_\_\_\_\_]

PLEASE TAKE NOTICE that on \_\_\_\_\_, 200\_, Delphi Corporation and certain  
of its subsidiaries and affiliates, debtors and debtors-in-possession in the above-captioned cases

(collectively, the "Debtors"), objected to proof of claim number \_\_\_\_\_ (the "Proof of Claim") filed by \_\_\_\_\_ (the "Claimant") pursuant to the [Title Of Applicable Omnibus Claims Objection] (the "Objection").

PLEASE TAKE FURTHER NOTICE that pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December \_\_, 2006 (the "Order"), a sufficiency hearing (the "Sufficiency Hearing") to address the legal sufficiency of the Proof of Claim and whether the Proof of Claim states a colorable claim against the asserted Debtor is hereby scheduled for \_\_\_\_\_, 200\_, at 10:00 a.m. (prevailing Eastern time) in the United States Bankruptcy Court for the Southern District of New York (the "Court").

PLEASE TAKE FURTHER NOTICE that the Sufficiency Hearing will proceed in accordance with the procedures provided in the Order, unless such procedures are modified in accordance with Paragraph 9(k) thereof. Please review the Order carefully – failure to comply with the procedures provided in the Order (or as modified pursuant to Paragraph 9(k)) could result in the disallowance and expungement of the Proof of Claim. A copy of the Order is attached hereto for your convenience.

PLEASE TAKE FURTHER NOTICE that the Debtors may further adjourn the Hearing at any time at least five business days prior to the scheduled hearing upon notice to the Court and the Claimant.

Dated: New York, New York  
\_\_\_\_\_, 200\_

SKADDEN, ARPS, SLATE, MEAGHER &  
FLOM LLP

By: \_\_\_\_\_  
John Wm. Butler, Jr. (JB 4711)  
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International: (248) 813-2698

Delphi Legal Information Website:  
<http://www.delphidocket.com>

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	x	
	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	x	

NOTICE OF CLAIMS OBJECTION HEARING WITH  
RESPECT TO DEBTORS' OBJECTION TO PROOF OF CLAIM NO. [\_\_\_\_\_]

PLEASE TAKE NOTICE that on \_\_\_\_\_, 200\_, Delphi Corporation and certain  
of its subsidiaries and affiliates, debtors and debtors-in-possession in the above-captioned cases

(collectively, the "Debtors"), objected to proof of claim number \_\_\_\_\_ (the "Proof of Claim") filed by \_\_\_\_\_ (the "Claimant") pursuant to the [Title Of Applicable Omnibus Claims Objection] (the "Objection").

PLEASE TAKE FURTHER NOTICE that pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December \_\_, 2006 (the "Order"), a claims objection hearing (the "Claims Objection Hearing") for purposes of holding an evidentiary hearing on the merits of the Proof of Claim is hereby scheduled for \_\_\_\_\_, 200\_\_, at 10:00 a.m. (prevailing Eastern time) in the United States Bankruptcy Court for the Southern District of New York (the "Court").

PLEASE TAKE FURTHER NOTICE that the Claims Objection Hearing will proceed in accordance with the procedures provided in the Order, unless such procedures are modified in accordance with Paragraph 9(k) thereof. Please review the Order carefully – failure to comply with the procedures provided in the Order (or as modified pursuant to Paragraph 9(k)) could result in the disallowance and expungement of the Proof of Claim. A copy of the Order is attached hereto for your convenience.

PLEASE TAKE FURTHER NOTICE that the Debtors may further adjourn the  
Hearing at any time at least five business days prior to the scheduled hearing upon notice to the  
Court and the Claimant.

Dated: New York, New York  
\_\_\_\_\_, 200\_

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FLOM LLP

By: \_\_\_\_\_  
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Attorneys for Delphi Corporation, et al.,  
Debtors and Debtors-in-Possession

EXHIBIT D

LIST OF MEDIATORS

Lawrence Abramczyk  
Marc Abrams  
Ronald Barliant  
Michael Baum  
Morton Collins  
Susan Cook  
Samuel Damren  
Eugene Driker  
Jonathan Flaxer  
Rozanne Giunta  
Erwin Katz  
Edward Moran  
Alan Nisselson  
Thomas Plunkett  
Marty Reisig



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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	

NOTICE OF DEBTORS' ELECTION TO ACCEPT CLAIMANT'S  
ASSERTED ESTIMATED AMOUNT FOR PROOF OF CLAIM NUMBER [\_\_\_\_\_]

PLEASE TAKE NOTICE that on \_\_\_\_\_, 200\_, Delphi Corporation and certain  
of its subsidiaries and affiliates, debtors and debtors-in-possession in the above-captioned cases

(collectively, the "Debtors"), objected to proof of claim number \_\_\_\_\_ (the "Proof of Claim") filed by \_\_\_\_\_ (the "Claimant") pursuant to the [Title Of Applicable Omnibus Claims Objection] (the "Objection").

PLEASE TAKE FURTHER NOTICE that on \_\_\_\_\_, 200\_, the Claimant filed its response to the objection, wherein Claimant (i) acknowledged that the Proof of Claim asserts claims that are contingent or fully or partially unliquidated and (ii) stated that the Claimant believes that the allowable amount of the Proof of Claim upon liquidation of the Contested Claim or occurrence of the contingency, as appropriate, is \$\_\_\_\_\_ (the "Claimant's Asserted Estimated Amount").

PLEASE TAKE FURTHER NOTICE that pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December \_\_, 2006 (the "Order"), the Debtors hereby provide notice that the Debtors elect to accept the Claimant's Asserted Estimated Amount as the estimated amount of the Proof of Claim pursuant to section 502(c) of the Bankruptcy Code as set forth in the Objection. A copy of the Order is attached hereto.

PLEASE TAKE FURTHER NOTICE that any hearing scheduled pursuant to the Order is hereby cancelled.

PLEASE TAKE FURTHER NOTICE that the Debtors' election to accept the Claimant's Asserted Estimated Amount is without prejudice to the Debtors' right to object to any other claims in these chapter 11 cases, or to further object to the Proof of Claim, on any grounds whatsoever.

Dated: New York, New York  
\_\_\_\_\_, 200\_

SKADDEN, ARPS, SLATE, MEAGHER &  
FLOM LLP

By: \_\_\_\_\_  
John Wm. Butler, Jr. (JB 4711)  
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Debtors and Debtors-in-Possession

# **EXHIBIT G**

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- and -

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	

NOTICE OF ADJOURNMENT OF CLAIMS OBJECTION HEARING WITH RESPECT TO  
DEBTORS' OBJECTION TO PROOF OF CLAIM NO. 12163 (EVA ORLIK)

PLEASE TAKE NOTICE that on October 31, 2006, Delphi Corporation and  
certain of its subsidiaries and affiliates, debtors and debtors-in-possession in the above-captioned

cases (collectively, the "Debtors"), objected to proof of claim number 12163 (the "Proof of Claim") filed by Eva Orlik (the "Claimant") pursuant to the Debtors' (i) Third Omnibus Objection (Substantive) Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To Certain (a) Claims With Insufficient Documentation, (b) Claims Unsubstantiated By Debtors' Books And Records, And (c) Claims Subject To Modification And (ii) Motion To Estimate Contingent And Unliquidated Claims Pursuant To 11 U.S.C. § 502(c) (Docket No. 5452) (the "Objection").

PLEASE TAKE FURTHER NOTICE that on December 26, 2006, the Debtors filed the Notice Of Claims Objection Hearing With Respect To Debtors' Objection To Proof Of Claim No. 12389 (Docket No. 6288)<sup>1</sup> scheduling a claims objection hearing (the "Claims Objection Hearing") for purposes of holding an evidentiary hearing on the merits of the Proof of Claim for March 1, 2007, at 10:00 a.m. (prevailing Eastern time).

PLEASE TAKE FURTHER NOTICE that pursuant to Paragraph 9(a)(ii) of the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December 7, 2006 (Docket No. 6089) (the "Order"), and with the consent of the Claimant, the Claims Objection Hearing is hereby further adjourned to March 21, 2007, at 10:00 a.m. (prevailing Eastern time) in the United States Bankruptcy Court for the Southern District of New York (the "Court").

PLEASE TAKE FURTHER NOTICE that the Claims Objection Hearing will proceed in accordance with the procedures provided in the Order, unless such procedures are modified in accordance with Paragraph 9(k) thereof. All provisions and deadlines set forth in the

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<sup>1</sup> On December 28, 2006 the Debtors filed the Amended Notice Of Claims Objection Hearing With Respect To Debtors' Objection To Proof Of Claim No. 12163 (Docket No. 6328) to correct a typographical error in the claim number on the original notice.

Order shall remain in full force and effect. Those deadlines calculated based on the hearing date shall be calculated based on the March 21, 2007 hearing date rather than the original March 1, 2007 date. Please review the Order carefully – failure to comply with the procedures provided in the Order (or as modified pursuant to Paragraph 9(k)) could result in the disallowance and expungement of the Proof of Claim. A copy of the Order is attached hereto for your convenience.

PLEASE TAKE FURTHER NOTICE that the Debtors may further adjourn the Claims Objection Hearing at any time at least five business days prior to the scheduled hearing upon notice to the Court and the Claimant.

Dated: New York, New York  
February 1, 2007

SKADDEN, ARPS, SLATE, MEAGHER &  
FLOM LLP

By: /s/ John Wm. Butler, Jr.  
John Wm. Butler, Jr. (JB 4711)  
John K. Lyons (JL 4951)  
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333 West Wacker Drive, Suite 2100  
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By: /s/ Kayalyn A. Marafioti  
Kayalyn A. Marafioti (KM 9632)  
Thomas J. Matz (TM 5986)  
Four Times Square  
New York, New York 10036  
(212) 735-3000

Attorneys for Delphi Corporation, et al.,  
Debtors and Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
: In re : Chapter 11  
: :  
: DELPHI CORPORATION, et al., : Case No. 05-44481 (RDD)  
: :  
: Debtors. : (Jointly Administered)  
: :  
-----X

ORDER PURSUANT TO 11 U.S.C. § 502(b) AND FED. R. BANKR. P. 2002(m),  
3007, 7016, 7026, 9006, 9007, AND 9014 ESTABLISHING (I) DATES FOR  
HEARINGS REGARDING OBJECTIONS TO CLAIMS AND (II) CERTAIN  
NOTICES AND PROCEDURES GOVERNING OBJECTIONS TO CLAIMS

("CLAIM OBJECTION PROCEDURES ORDER")

Upon the Motion For Order Pursuant To 11 U.S.C. §§ 502(b) And 502(c) And  
Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For  
Hearings Regarding Disallowance Or Estimation Of Claims And (ii) Certain Notices And  
Procedures Governing Hearings Regarding Disallowance Or Estimation Of Claims, dated  
October 31, 2006 (the "Motion"), of Delphi Corporation and certain of its subsidiaries and  
affiliates, debtors and debtors-in-possession in the above-captioned cases (collectively, the  
"Debtors"); and upon the objections to the Motion and the record of the hearing held on the  
Motion; and after due deliberation thereon; and good and sufficient cause appearing therefor,



IT IS HEREBY FOUND AND DETERMINED THAT:<sup>1</sup>

A. Proper, timely, adequate, and sufficient notice of the Motion has been provided, such notice was good, sufficient and appropriate under the particular circumstances, and no other or further notice of the Motion is or shall be required.

B. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. The Motion is a core proceeding under 28 U.S.C. § 157 (b)(2). Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

C. The relief requested in the Motion and granted herein is in the best interests of the Debtors, their estates, their creditors, and other parties-in-interest.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. This Court shall conduct special periodic hearings on contested claims matters in these cases (the "Claims Hearing Dates"), to be held in Courtroom 610, United States Bankruptcy Court, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004 unless the Debtors and the parties whose claims are affected are otherwise notified by the Court. The following dates and times have been scheduled as Claims Hearing Dates in these chapter 11 cases:

December 13, 2006 at 10:00 a.m. (prevailing Eastern time)

January 12, 2007 at 10:00 a.m. (prevailing Eastern time)

February 14, 2007 at 10:00 a.m. (prevailing Eastern time)

March 1, 2007 at 10:00 a.m. (prevailing Eastern time)

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<sup>1</sup> Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Motion.

March 21, 2007 at 10:00 a.m. (prevailing Eastern time)

April 5, 2007 at 10:00 a.m. (prevailing Eastern time)

April 27, 2007 at 10:00 a.m. (prevailing Eastern time)

May 10, 2007 at 10:00 a.m. (prevailing Eastern time)

May 24, 2007 at 10:00 a.m. (prevailing Eastern time)

June 1, 2007 at 10:00 a.m. (prevailing Eastern time)

June 14, 2007 at 10:00 a.m. (prevailing Eastern time)

June 22, 2007 at 10:00 a.m. (prevailing Eastern time)

July 12, 2007 at 10:00 a.m. (prevailing Eastern time)

July 20, 2007 at 10:00 a.m. (prevailing Eastern time)

August 2, 2007 at 10:00 a.m. (prevailing Eastern time)

August 17, 2007 at 10:00 a.m. (prevailing Eastern time)

August 30, 2007 at 10:00 a.m. (prevailing Eastern time)

September 28, 2007 at 10:00 a.m. (prevailing Eastern time)

October 11, 2007 at 10:00 a.m. (prevailing Eastern time)

October 26, 2007 at 10:00 a.m. (prevailing Eastern time)

November 8, 2007 at 10:00 a.m. (prevailing Eastern time)

November 30, 2007 at 10:00 a.m. (prevailing Eastern time)

December 6, 2007 at 10:00 a.m. (prevailing Eastern time)

2. Any response to a claims objection or an omnibus claims objection (a "Response") must (a) be in writing, (b) conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, and the Amended Eighth Supplemental Order Under 11 U.S.C. §§ 102(1) And 105 And Fed. R. Bankr. P. 2002(m), 9006,

9007, And 9014 Establishing Omnibus Hearing Dates And Certain Notice, Case Management, And Administrative Procedures, entered on October 26, 2006 (the "Amended Eighth Supplemental Case Management Order") (Docket No. 5418), (c) be filed with the Bankruptcy Court in accordance with General Order M-242 (as amended) – registered users of the Bankruptcy Court's case filing system must file electronically, and all other parties-in-interest must file on a 3.5 inch disk (preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format), (d) be submitted in hard copy form directly to the chambers of the Honorable Robert D. Drain, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, Room 610, New York, New York 10004, and (e) be served upon (i) Delphi Corporation, 5725 Delphi Drive, Troy, Michigan 48098 (Att'n: General Counsel) and (ii) counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, 333 West Wacker Drive, Suite 2100, Chicago, Illinois 60606 (Att'n: John Wm. Butler, Jr., John K. Lyons, and Randall G. Reese), in each case so as to be received no later than 4:00 p.m. (prevailing Eastern time) on the seventh calendar day prior to the Omnibus Hearing for which the relevant claims objection or omnibus claims objection is scheduled.

3. Every Response must contain at a minimum the following:

- (a) the title of the claims objection to which the Response is directed;
- (b) the name of the claimant (each holder of a proof of claim, a "Claimant") and a brief description of the basis for the amount of the claim;
- (c) a concise statement setting forth the reasons why the claim should not be disallowed, expunged, reduced, or reclassified, including, but not limited to, the specific factual and legal bases upon which the Claimant will rely in opposing the claims objection;
- (d) unless already set forth in the proof of claim previously filed with the Court, documentation sufficient to establish a prima facie right to payment; provided, however, that the Claimant need not disclose confidential, proprietary, or otherwise protected information in the Response; provided further, however, that the Claimant shall disclose to the Debtors all information and provide copies of all documents that the Claimant believes to be

confidential, proprietary, or otherwise protected and upon which the Claimant intends to rely in support of its Claim, subject to appropriate confidentiality constraints;

(e) to the extent that the claim is contingent or fully or partially unliquidated, the amount that the Claimant believes would be the allowable amount of such claim upon liquidation of the claim or occurrence of the contingency, as appropriate; and

(f) the address(es) to which the Debtors must return any reply to the Response, if different from the address(es) presented in the claim.

4. Only those Responses made in writing and timely filed and received will be considered by the Court. If a Claimant whose proof of claim is subject to a claims objection and who is served with the relevant claims objection fails to file and serve a timely Response in compliance with the foregoing procedures, the Debtors may present to the Court an appropriate order seeking relief with respect to such claim consistent with the relief sought in the relevant claims objection without further notice to the claimant, provided that, upon entry of such an order, the claimant shall receive notice of the entry of such order as provided below; provided, however, that if the claimant files a timely Response, which does not include the required minimum information provided in paragraph 3 above, the Debtors shall seek disallowance and expungement of the relevant claim or claims only in accordance with the Claims Hearing Procedures provided in paragraph 9 below.

5. To the extent that a Response is filed with respect to any claim listed in a claims objection (each, a "Contested Claim"), each such Claim and the objection to such Claim asserted in the claims objection shall be deemed to constitute a separate contested matter as contemplated by Bankruptcy Rule 9014.

6. The Debtors are hereby authorized and directed to serve each Claimant whose proof of claim is listed in any omnibus claims objection with (a) a personalized Notice Of Objection To Claim which specifically identifies the Claimant's proof of claim that is subject to objection and the basis for such objection and (b) a complete copy of the relevant omnibus

claims objection without exhibits. Service of omnibus claims objections in such manner shall constitute good and sufficient notice and no other or further notice to claimants of an omnibus claims objection shall be required.

7. Kurtzman Carson Consultants, LLC (the "Claims Agent") is hereby authorized and directed to serve all orders entered with respect to any omnibus claims objections, including exhibits, upon only the master service list and the 2002 list. The Claims Agent is hereby further authorized and directed to serve all claimants whose proofs of claim are the subject of an order entered with respect to an omnibus claims objection with a copy of such order, without exhibits, and a personalized Notice Of Entry Of Order in the form attached hereto as Exhibit A specifically identifying such Claimant's proof of claim that is subject to the order, the Court's treatment of such proof of claim, and the basis for such treatment, and advising the Claimant of its ability to view the order with exhibits free of charge on the Debtors' Legal Information Website. Without limiting the foregoing, the Court hereby directs the Claims Agent to serve the First Omnibus Claims Order in the manner provided hereby.

8. Any order entered by the Court with respect to an objection asserted in an omnibus claims objection shall be deemed a separate order with respect to each claim covered by such order.

9. The following procedures shall apply with respect to the determination of Contested Claims (the "Claims Hearing Procedures"):

(a) Adjournment Of Claims Hearing.

(i) All Contested Claims for which a timely Response is filed shall be automatically adjourned to a future hearing, the date of which shall be determined by the Debtors, in their sole discretion, by serving the Claimant with notice as provided herein. The Debtors may send such notice to each Claimant when they deem it appropriate to do so, subject to the requirements of the Bankruptcy Code, the Bankruptcy Rules, and any further order of this Court.

The Debtors shall schedule the further hearing upon each Contested Claim to a Claims Hearing of the Debtors' election:

(A) for a non-evidentiary hearing to address the legal sufficiency of the particular proof of claim and whether the proof of claim states a claim against the asserted Debtor under Bankruptcy Rule 7012 (a "Sufficiency Hearing"), by serving upon the relevant Claimant by facsimile or overnight delivery, and filing with this Court, a notice substantially in the form attached hereto as Exhibit B (a "Notice Of Sufficiency Hearing") and a copy of this Order at least 20 business days prior to the date of such Sufficiency Hearing, or

(B) for an evidentiary hearing on the merits of such Contested Claim (a "Claims Objection Hearing"), by serving upon the relevant Claimant by facsimile or overnight delivery, and filing with this Court, a notice substantially in the form attached hereto as Exhibit C (a "Notice Of Claims Objection Hearing" and, collectively with the Notice of Sufficiency Hearing, the "Notices of Hearing") and a copy of this Order at least 65 calendar days prior to the date of such Claims Objection Hearing.

(ii) The Debtors, in their sole discretion, are authorized to further adjourn a hearing scheduled in accordance herewith at any time by providing notice to the Court and the Claimant at least five business days prior to the date of the scheduled hearing; provided, however, that the hearing on any Contested Claim shall not be adjourned for more than a total of 180 calendar days from date of service of the initial Notice of Hearing set forth in paragraph 9(a)(i)(A) and (B) above without consent of the Claimant with respect thereto, unless otherwise ordered by the Court.

(b) Sufficiency Hearing Procedures.

(i) To the extent that a Contested Claim is adjourned to a Sufficiency Hearing, if the Debtors wish to file a supplemental pleading, they shall file and serve their pleading no later than ten calendar days before the scheduled Sufficiency Hearing. The supplemental pleading shall not exceed fifteen single-sided, double-spaced pages.

(ii) To the extent that a Contested Claim is adjourned to a Sufficiency Hearing, if the Claimant wishes to file a supplemental response, the Claimant shall file and serve its response no later than two business days before the scheduled Sufficiency Hearing. The supplemental response shall not exceed fifteen single-sided, double-spaced pages.

(iii) To the extent that this Court determines upon conclusion of the Sufficiency Hearing that a Contested Claim cannot be disallowed in whole or in part without further proceedings, the Debtors shall provide to the Claimant a Notice Of Claims Objection Hearing pursuant to the procedures set forth above.

(c) Mandatory Meet And Confer.

(i) If (A) (1) the amount in dispute for a Contested Claim exceeds \$1,000,000 or (2) a Contested Claim asserts unliquidated claims (unless the Claimant irrevocably agrees in writing that the allowed amount of such Contested Claim shall be limited to a maximum of \$1,000,000), (B) the Claimant (if an individual) or the Claimant's principal place of

business (if a governmental unit or a person, as defined in section 101(41) of the Bankruptcy Code, other than an individual) is located within 90 miles of Troy, Michigan, and (C) such Contested Claim is scheduled by the Debtors for a Claims Objection Hearing, the Debtors and the relevant Claimant shall hold an in-person meet and confer (an "In-Person Meet and Confer") at a neutral location in Troy, Michigan, or such other location as is reasonably acceptable to the Debtors, within ten business days of service of the Notice Of Claims Objection Hearing.

(ii) If (A) (1) the amount in dispute for a Contested Claim is less than or equal to \$1,000,000, (2) a Contested Claim asserts unliquidated claims and the Claimant with respect thereto irrevocably agrees in writing that the allowed amount of such Contested Claim shall be limited to a maximum of \$1,000,000, or (3) the Claimant (if an individual) or the Claimant's principal place of business (if a governmental unit or a person, as defined in section 101(41) of the Bankruptcy Code, other than an individual) is located more than 90 miles from Troy, Michigan, and (B) such Contested Claim is scheduled by the Debtors for a Claims Objection Hearing, the Debtors and the relevant Claimant shall hold a telephonic meet and confer (a "Telephonic Meet and Confer" and, collectively with In-Person Meet and Confers, the "Meet and Confers") within ten business days of service of the Notice Of Claims Objection Hearing.

(iii) The following representatives of each of the Debtors and the Claimant shall attend the Meet and Confer: (A) counsel for each of the parties, except for a Claimant proceeding pro se, who shall be prepared to discuss the matter described in paragraph 9 (k) below, and (B) a person possessing ultimate authority to reconcile, settle, or otherwise resolve the Contested Claim on behalf of the Debtors and the Claimant, respectively; provided, however, that counsel for each of the parties may participate in the Meet and Confer telephonically.

(iv) The Court will consider appropriate sanctions, including allowance or disallowance of the Contested Claim, if either party does not follow the foregoing procedures or conduct the Meet and Confer in good faith.

(d) Debtors' Statement Of Disputed Issues. Within five business days after service of the Notice Of Claims Objection Hearing, the Debtors shall file and serve a written statement of disputed issues (the "Statement Of Disputed Issues") upon the Claimant. The Statement Of Disputed Issues shall contain a concise statement summarily setting forth the primary reasons why the claim should be disallowed, expunged, reduced, or reclassified as set forth in the claims objection, including, but not limited to, the material factual and legal bases upon which the Debtors will rely in prosecuting the claims objection, without prejudice to the Debtors' right to later identify and assert additional legal and factual bases for disallowance, expungement, reduction, or reclassification of the Contested Claim. The Statement of Disputed Issues shall also include documentation supporting the disallowance, expungement, reduction, or reclassification of the Contested Claim, without prejudice to the Debtors' right to later identify additional documentation supporting the disallowance, expungement, reduction, or reclassification of the Contested Claim; provided, however, that the Debtors need not disclose confidential, proprietary, or otherwise protected information in the Statement of Disputed Issues; provided further, however, that the Debtors shall disclose to the Claimant all information and

provide copies of all documents that the Debtors believe to be confidential, proprietary, or otherwise protected, subject to appropriate confidentiality constraints.

(e) Claimant's Supplemental Response. The following procedures apply to the Claimant's written supplemental response (the "Supplemental Response"), subject to modification pursuant to paragraph 9(k), filed in connection with a Claims Objection Hearing for a Contested Claim:

(i) The Claimant may file and serve its Supplemental Response (with a copy to chambers) no later than 30 business days prior to commencement of the Claims Objection Hearing. The Supplemental Response shall not exceed 20 single-sided, double-spaced pages (exclusive of exhibits or affidavits).

(ii) If the Claimant relies on exhibits, the Claimant shall include such exhibits in its Supplemental Response (other than those previously included with either its Proof of Claim or its Response); provided, however, that the Claimant need not disclose confidential, proprietary, or otherwise protected information in the Supplemental Response; provided further, however, that the Claimant shall disclose to the Debtors all information and provide copies of all documents that the Claimant believes to be confidential, proprietary, or otherwise protected and upon which the Claimant intends to rely in support of its Contested Claim, subject to appropriate confidentiality constraints. The Claimant shall include a certificate of counsel or a declaration or affidavit authenticating any documents attached to the Supplemental Response, as appropriate.

(iii) The Supplemental Response may include affidavits or declarations from no more than two witnesses setting forth the basis of the Contested Claim and evidence supporting the Contested Claim; provided, however, that if the Claimant intends to call a person not under such Claimant's control at the hearing, the Claimant shall, in lieu of an affidavit or declaration of such person, identify such person, the Claimant's basis for calling such person as a witness, and the reason that it did not file an affidavit or declaration of such person. If an affiant or declarant does not attend the Claims Objection Hearing, such affiant or declarant's affidavit or declaration shall be stricken. The Claimant shall not be permitted to elicit any direct testimony at the Claims Objection Hearing; instead, the affidavit or declaration submitted with the Supplemental Response, or such witnesses' deposition transcript if the witnesses were not under the Claimant's control, shall serve as the witnesses' direct testimony and the Debtors may cross examine the witnesses at the Claims Objection Hearing, or counter-designate deposition testimony. No other or additional witnesses may introduce evidence at the hearing on behalf of the Claimant.

(iv) No later than three business days prior to commencement of the Claims Objection Hearing, if the Claimant timely filed a Supplemental Response, the Claimant may file and serve (with a copy to chambers) an amended Supplemental Response and a supplemental affidavit or declaration on behalf of each of its witnesses solely for the purpose of supplementing the Supplemental Response and the witnesses' prior affidavits or declarations with respect to matters adduced through the discovery provided by these Claims Hearing Procedures; provided that the amended Supplemental Response shall be subject to the page limitations set forth above.



(f) Debtors' Supplemental Reply. The following procedures shall apply to the Debtors' written supplemental reply, if any (the "Supplemental Reply"), subject to modification pursuant to paragraph 9(k) below, filed in connection with a Claims Objection Hearing with respect to a Contested Claim:

(i) The Debtors may file and serve (with a copy to chambers) a Supplemental Reply no later than 20 business days prior to commencement of the Claims Objection Hearing. The Supplemental Reply shall not exceed 20 single-sided, double-spaced pages (exclusive of exhibits or affidavits).

(ii) If the Debtors rely on exhibits, the Debtors shall include such exhibits in their Supplemental Reply (other than those previously included with either their objection or reply); provided, however, that the Debtors need not disclose confidential, proprietary, or otherwise protected information in the Supplemental Reply; provided further, however, that the Debtors shall disclose to the Claimant all information and provide copies of all documents that the Debtors believe to be confidential, proprietary, or otherwise protected and upon which the Debtors intend to rely in support of their objection, subject to appropriate confidentiality constraints. The Debtors shall include a certificate of counsel or a declaration or affidavit authenticating any documents attached to the Supplemental Reply.

(iii) The Supplemental Reply may include affidavits or declarations from no more than two witnesses setting forth the Debtors' basis for objecting to the Contested Claim and evidence in support of such objection to the Contested Claim; provided, however, that if the Debtors intend to call a person not under the Debtors' control at the hearing, the Debtors shall, in lieu of an affidavit or declaration of such person, identify such person, the Debtors' basis for calling such person as a witness, and the reason that it did not file an affidavit or declaration of such person. If an affiant or declarant does not attend the Claims Objection Hearing, as appropriate, such affiant or declarant's affidavit or declaration shall be stricken. The Debtors shall not be permitted to elicit any direct testimony at the Claims Objection Hearing, instead, the affidavit or declaration submitted with the Supplemental Reply, or such witnesses' deposition transcript if the witnesses were not under the Debtors' control, shall serve as the witnesses' direct testimony and the Claimant may cross examine the witnesses at the Claims Objection Hearing or counter-designate deposition testimony. No other or additional witnesses may introduce evidence at the hearing on behalf of the Debtors.

(iv) No later than three business days prior to commencement of the Claims Objection Hearing, if the Debtors timely filed a Supplemental Reply, the Debtors may file and serve (with a copy to chambers) an amended Supplemental Reply and a supplemental affidavit or declaration on behalf of each of their witnesses solely for the purpose of supplementing the Supplemental Reply and the witnesses' prior affidavits or declarations with respect to matters adduced through the discovery provided by these Claims Hearing Procedures; provided that the amended Supplemental Reply shall be subject to the page limitations set forth above.

(g) Mandatory Non-Binding Summary Mediation. Except as set forth below, at least 15 business days prior to commencement of the Claims Objection Hearing, the Debtors and the Claimant shall submit to mandatory non-binding summary mediation (each, a

"Mediation") in an effort to consensually resolve the Contested Claim. The Mediation shall be governed by General Order M-143 except as follows. The following procedures shall apply to each Mediation, subject to modification pursuant to paragraph 9(k) below:

(i) Each Mediation shall be assigned to one of the mediators listed by the Debtors on Exhibit D hereto (each, a "Mediator"). The Debtors and the Claimant shall agree upon the Mediator at the Meet and Confer; provided that, if the Debtors and the Claimant are unable to agree upon a Mediator, the parties shall promptly report such inability to agree to the Court.

(ii) The Mediator shall not have the authority to require either the Debtors or the Claimant to provide any additional briefing with respect to the Mediation.

(iii) If (A) (1) the amount in dispute for a Contested Claim exceeds \$1,000,000 or (2) a Contested Claim asserts unliquidated claims (unless the Claimant with respect thereto irrevocably agrees in writing that the allowed amount of such Contested Claim shall be limited to a maximum of \$1,000,000) and (B) the Claimant (if an individual) or the Claimant's principal place of business (if a governmental unit or a person, as defined in section 101(41) of the Bankruptcy Code, other than an individual) is located within 90 miles of Troy, Michigan, the Mediation shall be held at a neutral location in Troy, Michigan.

(iv) If (A) (1) the amount in dispute for a Contested Claim exceeds \$1,000,000 or (2) a Contested Claim asserts unliquidated claims (unless the Claimant with respect thereto irrevocably agrees in writing that the allowed amount of such Contested Claim shall be limited to a maximum of \$1,000,000), and (B) the Claimant (if an individual) or the Claimant's principal place of business (if a governmental unit or a person, as defined in section 101(41) of the Bankruptcy Code, other than an individual) is located more than 90 miles from Troy, Michigan, the Mediation shall be held at a neutral location reasonably acceptable to the Debtors and the Claimant; provided that, if the Debtors and the Claimant are unable to agree upon a neutral location at the Meet and Confer, the parties shall promptly report such inability to agree to the Court.

(v) If (A) the amount in dispute for a Contested Claim is less than or equal to \$1,000,000 or (B) the Contested Claim asserts unliquidated claims and the Claimant with respect thereto irrevocably agrees in writing that the allowed amount of such Contested Claim shall be limited to a maximum of \$1,000,000, participation in Mediation shall be voluntary and any Mediation may be held telephonically at either the Debtors' or the Claimant's request.

(vi) A person possessing ultimate authority to reconcile, settle, or otherwise resolve the Contested Claim on behalf of each of the Debtors and the Claimant shall attend an in-person Mediation or participate in a telephonic Mediation, if any; provided, however, that the Debtors' counsel will not be precluded from attending and participating in a Mediation in the event that the claimant elects not to have its counsel attend or participate in a Mediation.

(vii) Absent consent of each of the Claimant and the Debtors, the length of the Mediation shall be limited to one day.

(viii) The Court will consider appropriate sanctions, including allowance or disallowance of the Contested Claim, if either party does not follow the foregoing procedures or conduct the Mediation in good faith.

(ix) The Debtors and the Claimant shall each bear its own costs in participating in the Mediation. The Debtors are hereby authorized to pay the Mediator's fees.

(h) Claims Objection Hearing Discovery. If a Claims Objection Hearing is scheduled for a particular Contested Claim, the Debtors and the Claimant shall be bound by the following discovery procedures, which shall otherwise be governed by the Bankruptcy Rules, subject to modification pursuant to paragraph 9(k) below:

(i) No later than five business days after service of the Supplemental Response, the Debtors may request:

(A) That the Claimant produce documents relevant to the Contested Claim. Documents shall be produced at least ten business days prior to commencement of the Claims Objection Hearing.

(B) That the Claimant respond to no more than 15 interrogatories, including discrete subparts. Responses shall be produced at least ten business days prior to commencement of the Claims Objection Hearing.

(C) That the Claimant respond to no more than ten requests for admission. Responses shall be produced at least ten business days prior to commencement of the Claims Objection Hearing.

(ii) No later than five business days after service of the Supplemental Reply, the Claimant may request:

(A) That the Debtors produce documents relevant to the Contested Claim. Documents shall be produced at least ten business days prior to commencement of the Claims Objection Hearing.

(B) That the Debtors respond to no more than 15 interrogatories, including discrete subparts. Responses shall be produced at least ten business days prior to commencement of the Claims Objection Hearing.

(C) That the Debtors respond to no more than ten requests for admission. Responses shall be produced at least ten business days prior to commencement of the Claims Objection Hearing.

(iii) No earlier than fifteen business days prior to the commencement of the Claims Objection Hearing, but at least five business days prior to commencement of the Claims Objection Hearing, the Debtors may, at their election, take the deposition upon oral examination of each witness whose affidavit or declaration was proffered in support of the Claimant's Supplemental Response. Each deposition shall not exceed three hours.

(iv) No earlier than fifteen business days prior to the commencement of the Claims Objection Hearing, but at least five business days prior to commencement of the Claims Objection Hearing, the Claimant may, at its election, take the deposition upon oral examination of each witness whose affidavit or declaration was proffered in support of the Debtors' Supplemental Reply. Each deposition shall not exceed three hours.

(v) Except as provided in paragraph 9(g)(vi) above, nothing in this Order alters any obligation of opposing counsel with regard to communications with non-counsel opponents or any applicable law regarding corporations or other business entities to be represented by counsel.

(i) Conduct Of The Claims Objection Hearing. The Debtors and the Claimant shall each be permitted, subject to modification pursuant to paragraph 9(k) below, no more than one hour to present their respective cases, inclusive of time cross-examining their opponent's witnesses and making argument to the Court. The parties shall coordinate with each other in advance of the hearing with respect to, joint exhibit binders, stipulated admission of evidence, anticipated disputes regarding the admission of particular evidence and any designated deposition testimony.

(j) Estimation Based Upon Claimant's Asserted Estimated Amount. To the extent that a Contested Claim would be subject to estimation pursuant to section 502(c) of the Bankruptcy Code and the Debtors have sought authority to estimate such Contested Claim pursuant to an omnibus claims objection and/or a motion to estimate claims, if the Claimant has filed a Response in accordance with the procedures outlined above which (i) acknowledges that the Contested Claim is contingent or fully or partially unliquidated and (ii) provides the amount that the Claimant believes would be the allowable amount of such Contested Claim upon liquidation of the Contested Claim or occurrence of the contingency, as appropriate (the "Claimant's Asserted Estimated Amount"), the Debtors are hereby authorized, in their sole discretion, to elect to provisionally accept the Claimant's Asserted Estimated Amount as the estimated amount of such Contested Claim pursuant to section 502(c) of the Bankruptcy Code for all purposes other than allowance, but including voting and establishing reserves for purposes of distribution, subject to further objection and reduction as appropriate and section 502(j) of the Bankruptcy Code. The Debtors' election shall be made by serving the Claimant with a Notice Of Election To Accept Claimant's Asserted Estimated Amount in the form attached hereto as Exhibit E. The Contested Claim will otherwise remain subject in all respects to the procedures outlined herein.

(k) Ability To Modify Procedures By Agreement Or Order Of Court. At the Meet and Confer, the parties shall discuss discovery parameters, briefing, evidence to be presented, the timing outlined herein, and any modifications thereto that are necessary due to the facts and circumstances of the relevant Contested Claim. Should the parties be unable to agree on reasonable modifications to these Claim Hearing Procedures, if any, either party may request that the Court promptly schedule a teleconference to consider such proposed modifications. No discovery, testimony, or motion practice other than that described herein, as modified, shall be permitted, unless otherwise agreed by the parties or ordered by the Court.

10. The procedures approved herein shall not apply to claims filed by Banc of America Securities LLC (as to proof of claim number 10758), Barclays Capital Inc. (as to proof of claim number 11658), Bear, Stearns & Co. Inc. (as to proof of claim number 10732), Cadence Innovation LLC, Citigroup Global Markets, Inc. (as to proof of claim number 10731), Credit Suisse Securities (USA) LLC (as to proof of claim number 10763), Merrill Lynch, Peirce, Fenner & Smith Inc. (as to proof of claim number 10761), Morgan Stanley & Co. Inc. (as to proof of claim number 10762), the Pension Benefit Guaranty Corporation, Robert Bosch GmbH, the State of California Environmental Protection Agency, the State of Michigan Environmental Protection Agency, the State of Ohio Environmental Protection Agency, Technology Properties, Ltd., UBS Securities LLC (as to proof of claim number 10759), the United States Environmental Protection Agency, and Wachovia Capital Markets, LLC (as to proof of claim number 10760) (collectively, the "Excluded Parties") for any purpose, including, but not limited to, any objections to such claims or other litigation in respect of such claims; provided, however, that nothing contained herein shall preclude any of the Excluded Parties or the Debtors, after notice and an opportunity to be heard, from seeking to establish appropriate alternative claims resolution procedures.

11. With respect to the claim of Gary Whitney ("Mr. Whitney") (claim number 10157) and NuTech Plastics Engineering, Inc. ("NuTech") (claim number 1279 against Delphi Automotive Systems LLC), nothing in this Order shall limit Mr. Whitney's or NuTech's ability to request relief from the automatic stay provisions under section 362 of the Bankruptcy Code subject to the Debtors' right to object to such request.

12. The Debtors shall not serve a Notice of Hearing on Orix Warren, LLC ("Orix Warren") with respect to proof of claim number 10202 until the earliest of the following

to occur: (a) the Debtors assume the lease between Delphi Automotive Systems LLC and Orix Warren with respect to property located at 4551 Research Parkway in Warren, Ohio (the "Orix Lease"), (b) the Debtors reject the Orix Lease, or (c) the Orix Lease terminates or is terminated pursuant to its terms.

13. Nothing in this Order shall preclude any right to seek estimation of a claim under section 502(c) of the Bankruptcy Code, any right to seek relief from the automatic stay under section 362 of the Bankruptcy Code to liquidate a claim in a different forum, any right to seek protection of information under section 107(b) of the Bankruptcy Code or any right not specifically addressed in this Order.

14. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this order.

15. The requirement under Rule 9013-1(b) of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York for the service and filing of a separate memorandum of law is deemed satisfied by the Motion.

Dated: New York, New York  
December 6, 2006

/s/Robert D. Drain

UNITED STATES BANKRUPTCY JUDGE

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Delphi Legal Information Website:  
<http://www.delphidocket.com>

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	x	
	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	x	

NOTICE OF ENTRY OF ORDER WITH RESPECT  
TO [ ] OMNIBUS CLAIMS OBJECTION

PLEASE TAKE NOTICE that on \_\_\_\_\_, 200\_, the United States Bankruptcy  
Court for the Southern District of New York entered a [title of order] (the "Order").

PLEASE TAKE FURTHER NOTICE THAT a copy of the Order, excluding exhibits, is attached hereto.

PLEASE TAKE FURTHER NOTICE that the proof of claim listed below, which you filed against Delphi Corporation and/or other of its subsidiaries and affiliates that are debtors and debtors-in-possession in the above-captioned cases (collectively, the "Debtors"), was the subject of the Order and was listed on Exhibit \_\_ to the Order and was accordingly disallowed and expunged, unless otherwise provided below in the column entitled "Treatment Of Claim."

<b>Date Filed</b>	<b>Claim Number</b>	<b>Asserted Claim Amount<sup>1</sup></b>	<b>Basis For Objection</b>	<b>Treatment Of Claim</b>	<b>Surviving Claim Number (if any)</b>

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<sup>1</sup> Asserted Claim Amounts listed as \$0.00 generally reflect that the claim amount asserted is unliquidated.



PLEASE TAKE FURTHER NOTICE that you may view the complete exhibits to the Order by requesting a copy from the claims and noticing agent in the above-captioned chapter 11 cases, Kurtzman Carson Consultants LLC, at 1-888-259-2691 or by accessing the Debtors' Legal Information Website at [www.delphidocket.com](http://www.delphidocket.com).

Dated: New York, New York  
\_\_\_\_\_, 200\_

BY ORDER OF THE COURT

John Wm. Butler, Jr. (JB 4711)  
John K. Lyons (JL 4951)  
Ron E. Meisler (RM 3026)  
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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	x	
	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	x	

NOTICE OF HEARING WITH RESPECT TO  
DEBTORS' OBJECTION TO PROOF OF CLAIM NO. [\_\_\_\_\_]

PLEASE TAKE NOTICE that on \_\_\_\_\_, 200\_, Delphi Corporation and certain  
of its subsidiaries and affiliates, debtors and debtors-in-possession in the above-captioned cases

(collectively, the "Debtors"), objected to proof of claim number \_\_\_\_\_ (the "Proof of Claim") filed by \_\_\_\_\_ (the "Claimant") pursuant to the [Title Of Applicable Omnibus Claims Objection] (the "Objection").

PLEASE TAKE FURTHER NOTICE that pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December \_\_, 2006 (the "Order"), a sufficiency hearing (the "Sufficiency Hearing") to address the legal sufficiency of the Proof of Claim and whether the Proof of Claim states a colorable claim against the asserted Debtor is hereby scheduled for \_\_\_\_\_, 200\_, at 10:00 a.m. (prevailing Eastern time) in the United States Bankruptcy Court for the Southern District of New York (the "Court").

PLEASE TAKE FURTHER NOTICE that the Sufficiency Hearing will proceed in accordance with the procedures provided in the Order, unless such procedures are modified in accordance with Paragraph 9(k) thereof. Please review the Order carefully – failure to comply with the procedures provided in the Order (or as modified pursuant to Paragraph 9(k)) could result in the disallowance and expungement of the Proof of Claim. A copy of the Order is attached hereto for your convenience.

PLEASE TAKE FURTHER NOTICE that the Debtors may further adjourn the  
Hearing at any time at least five business days prior to the scheduled hearing upon notice to the  
Court and the Claimant.

Dated: New York, New York  
\_\_\_\_\_, 200\_

SKADDEN, ARPS, SLATE, MEAGHER &  
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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	x	

NOTICE OF CLAIMS OBJECTION HEARING WITH  
RESPECT TO DEBTORS' OBJECTION TO PROOF OF CLAIM NO. [\_\_\_\_\_]

PLEASE TAKE NOTICE that on \_\_\_\_\_, 200\_, Delphi Corporation and certain  
of its subsidiaries and affiliates, debtors and debtors-in-possession in the above-captioned cases

(collectively, the "Debtors"), objected to proof of claim number \_\_\_\_\_ (the "Proof of Claim") filed by \_\_\_\_\_ (the "Claimant") pursuant to the [Title Of Applicable Omnibus Claims Objection] (the "Objection").

PLEASE TAKE FURTHER NOTICE that pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December \_\_, 2006 (the "Order"), a claims objection hearing (the "Claims Objection Hearing") for purposes of holding an evidentiary hearing on the merits of the Proof of Claim is hereby scheduled for \_\_\_\_\_, 200\_\_, at 10:00 a.m. (prevailing Eastern time) in the United States Bankruptcy Court for the Southern District of New York (the "Court").

PLEASE TAKE FURTHER NOTICE that the Claims Objection Hearing will proceed in accordance with the procedures provided in the Order, unless such procedures are modified in accordance with Paragraph 9(k) thereof. Please review the Order carefully – failure to comply with the procedures provided in the Order (or as modified pursuant to Paragraph 9(k)) could result in the disallowance and expungement of the Proof of Claim. A copy of the Order is attached hereto for your convenience.

PLEASE TAKE FURTHER NOTICE that the Debtors may further adjourn the  
Hearing at any time at least five business days prior to the scheduled hearing upon notice to the  
Court and the Claimant.

Dated: New York, New York  
\_\_\_\_\_, 200\_

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FLOM LLP

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Attorneys for Delphi Corporation, et al.,  
Debtors and Debtors-in-Possession

EXHIBIT D

LIST OF MEDIATORS

Lawrence Abramczyk  
Marc Abrams  
Ronald Barliant  
Michael Baum  
Morton Collins  
Susan Cook  
Samuel Damren  
Eugene Driker  
Jonathan Flaxer  
Rozanne Giunta  
Erwin Katz  
Edward Moran  
Alan Nisselson  
Thomas Plunkett  
Marty Reisig



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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	x	

NOTICE OF DEBTORS' ELECTION TO ACCEPT CLAIMANT'S  
ASSERTED ESTIMATED AMOUNT FOR PROOF OF CLAIM NUMBER [\_\_\_\_\_]

PLEASE TAKE NOTICE that on \_\_\_\_\_, 200\_, Delphi Corporation and certain  
of its subsidiaries and affiliates, debtors and debtors-in-possession in the above-captioned cases

(collectively, the "Debtors"), objected to proof of claim number \_\_\_\_\_ (the "Proof of Claim") filed by \_\_\_\_\_ (the "Claimant") pursuant to the [Title Of Applicable Omnibus Claims Objection] (the "Objection").

PLEASE TAKE FURTHER NOTICE that on \_\_\_\_\_, 200\_, the Claimant filed its response to the objection, wherein Claimant (i) acknowledged that the Proof of Claim asserts claims that are contingent or fully or partially unliquidated and (ii) stated that the Claimant believes that the allowable amount of the Proof of Claim upon liquidation of the Contested Claim or occurrence of the contingency, as appropriate, is \$\_\_\_\_\_ (the "Claimant's Asserted Estimated Amount").

PLEASE TAKE FURTHER NOTICE that pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December \_\_, 2006 (the "Order"), the Debtors hereby provide notice that the Debtors elect to accept the Claimant's Asserted Estimated Amount as the estimated amount of the Proof of Claim pursuant to section 502(c) of the Bankruptcy Code as set forth in the Objection. A copy of the Order is attached hereto.

PLEASE TAKE FURTHER NOTICE that any hearing scheduled pursuant to the Order is hereby cancelled.

PLEASE TAKE FURTHER NOTICE that the Debtors' election to accept the Claimant's Asserted Estimated Amount is without prejudice to the Debtors' right to object to any other claims in these chapter 11 cases, or to further object to the Proof of Claim, on any grounds whatsoever.

Dated: New York, New York  
\_\_\_\_\_, 200\_

SKADDEN, ARPS, SLATE, MEAGHER &  
FLOM LLP

By: \_\_\_\_\_  
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Debtors and Debtors-in-Possession

# **EXHIBIT H**

Claimant	Contact	Address1	Address2	Address3	City	State	Zip
Thomas C. Wimsatt/Donna Wilson	Thomas C. Wimsatt	P.O. Box 281			Frankenmuth	MI	48734
Thomas C. Wimsatt/Donna Wilson	Thomas C. Wimsatt	Mahlberg, Brandt, Gilbert, Thompson & Bommarito	715 Court St.		Saginaw	MI	48602

# **EXHIBIT I**

Pg 175 of 179

Delphi Corporation  
Statement of Disputed Issues  
Special Party

Claimant	Contact	Address1	Address2	Address3	City	State	Zip	Fax
Edith James	Rex Elliot	Cooper & Elliot LLC	2175 Riverside Dr.		Columbus	OH	43221	614-481-6001

## **EXHIBIT J**



Pg 177 of 179

Delphi Corporation  
Statement of Disputed Issues  
Special Party

Claimant	Contact	Address1	Address2	Address3	City	State	Zip	Fax
Joseph Reno	Brad A. Chalker	Law Offices of Brad A. Chalker	P.O. Box 750726		Dayton	OH	45475	937-436-1894

# **EXHIBIT K**

Delphi Corporation  
Statement of Disputed Issues  
Special Parties

Claimant	Contact	Address1	Address2	Address3	City	State	Zip	Fax
Eva Orlik	Eva Orlik	14102 Warbler Way N.			Carmel	IN	46033	
Eva Orlik	Gerrard DiConza	DiConza Law, P.C.	630 Third Ave.	Seventh Floor	New York	NY	10017	212-682-4942